TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1897.

No. 83.

THE CONNECTICUT MUTUAL LIFE INSURANCE COMPANY, PLAINTIFF IN ERROR,

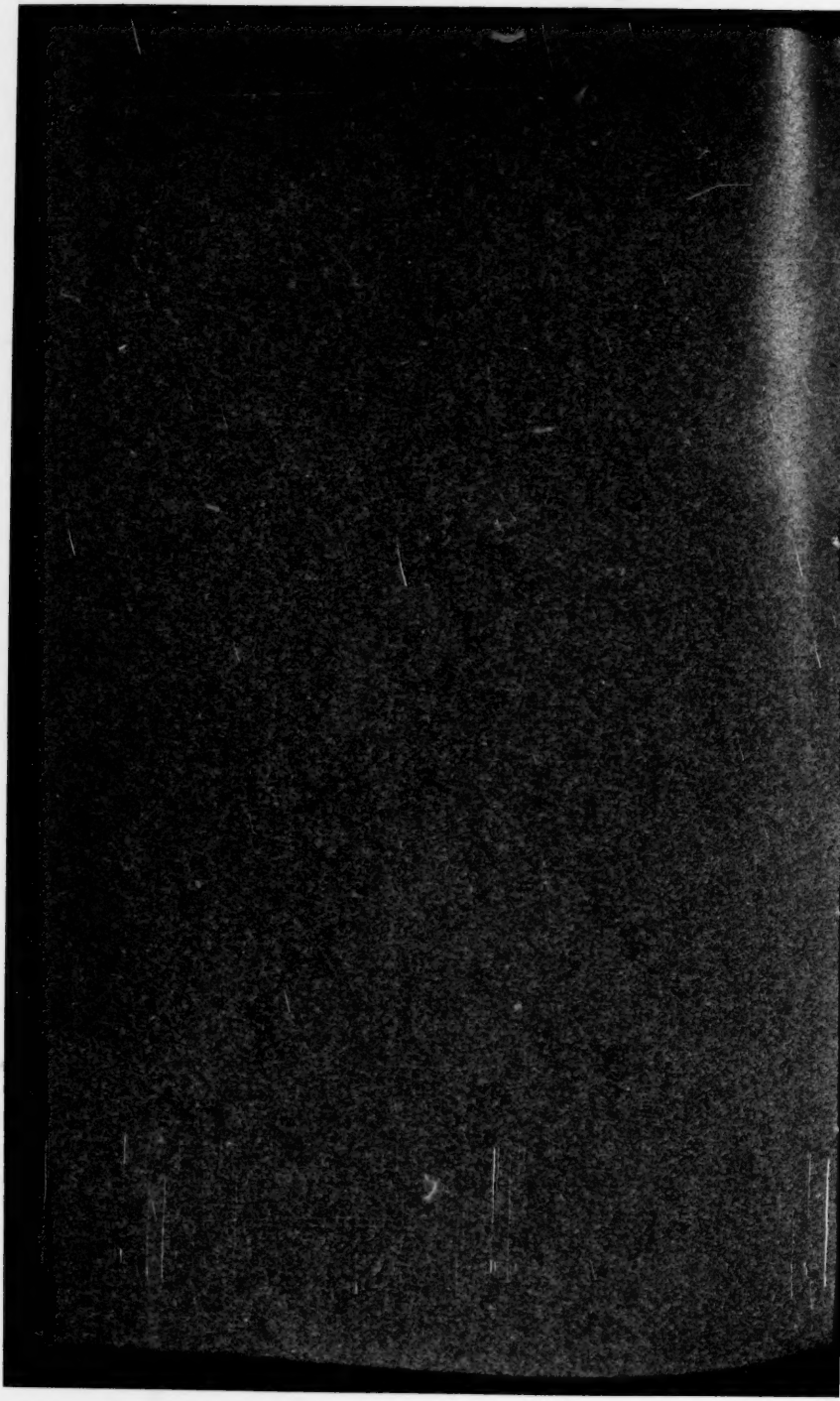
vs.

LINDA Y. SPRATLEY.

IN ERROR TO THE SUPREME COURT OF THE STATE OF TENNESSEE.

FILED OCTOBER 12, 1897.

(16,687.)



(16,697.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1897.

No. 484.

THE CONNECTICUT MUTUAL LIFE INSURANCE COMPANY, PLAINTIFF IN ERROR,

vs.

LINDA Y. SPRATLEY.

IN ERROR TO THE SUPREME COURT OF THE STATE OF TENNESSEE.

INDEX.

	Original.	Print.
Transcript from chancery court of Shelby county	*a*	1
Caption	1	1
Bill of complaint	1	1
Exhibit No. 1—Judgment in case of Spratley *vs.* Connecticut Mutual Life Ins. Co. of Hartford, Conn.	6	5
Cost bond	8	6
Injunction bond	9	6
Injunction writ and return	10	7
Subpœna	10	7
Sheriff's return	11	7
Motion to dissolve injunction	11	8
Order overruling motion to dissolve injunction	13	9
Answer of Linda Y. Spratley	13	9
Deposition of John M. Taylor	19	14
Exhibit C—Power of attorney to secretary of state of Tennessee from the Conn. Mutual Life Ins. Co.	31	21
D—Letter, Abbott to Chaffee, June 7, 1887	33	22
E—Letter, Taylor to Craig, July 21, 1894	34	23
F—Letter, Craig to C. M. L. Ins. Co., May 10, 1895	34	23
G—Letter, Taylor to Craig, May 17, 1895	35	24
H—Letter, Craig to C. M. L. Ins. Co., May 20, 1895	36	24
K—Letter, Taylor to Craig, May 27, 1895	37	25

JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., DECEMBER 16, 1897.

	Original.	Print.
Deposition of O. N. Chaffee	37	25
Exhibit A—Letter, Abbott to Chaffee, June 7, 1887	42	28
B—Letter, Taylor to Chaffee, March 20, 1896	43	28
Deposition of S. J. York	43	29
Exhibit A—Telegram, Taylor to Chaffee, April 13, 1896	45	30
Record from circuit court of Shelby county in case of Spratley vs. Conn. Mutual Life Ins. Co	46	31
Cost bond	46	31
Summons	47	31
Sheriff's return	47	31
Certificate of mailing copy of summons to defendant company	47	32
Affidavit showing notice of suit, &c.	48	32
Notice of suit	49	33
Cost bond	50	33
Summons	50	33
Declaration	51	34
Order granting leave to amend declaration	53	36
Judgment	54	36
Final decree	56	37
Allowance of appeal	56	38
Appeal bond	57	38
Clerk's certificate	57	38
Opinion	59	38
Final decree	70	45
Bond on writ of error	73	47
Writ of error (copy)	75	48
Assignment of errors	79	50
Certificate of Chief Justice Snodgrass as to question decided	82	52
Citation (copy)	85	54
Clerk's certificate	86	54

a Chancery Court of Shelby County.

CONNECTICUT MUTUAL LIFE INSURANCE CO.
vs.
LINDA Y. SPRATLEY. } No. 10365.

Estes & Fentress, attorneys for complainant.
Turley & Wright, attorneys for defendant.
R. H. Beard, C. & M.

Filed April 3, 1897.

JNO. W. BUFORD, *Clerk.*

1 Chancery Court of Shelby County.

STATE OF TENNESSEE, }
Shelby County. }

Be it remembered that at a term of the chancery court of Shelby county, State aforesaid, begun and held at the court-house, in the city of Memphis, in and for said county, on Monday, the 5th day of October, 1896, the same being the first Monday in October, 1896—present and presiding, the Hon. John L. T. Sneed, chancellor of said court—the following proceedings were had, to wit:

Injunction Bill.

Filed 10th Day of October, 1896.

In the Chancery Court of Shelby County, Tennessee, Part 1.

THE CONNECTICUT MUTUAL LIFE INSURANCE COMPANY OF HARTFORD, Complainant,
vs.
LYNDA Y. SPRATLEY, a Resident of Shelby County, Tennessee, Defendant.

To the Hon. John L. T. Sneed, chancellor:

Complainant, The Connecticut Mutual Life Insurance Co. of Hartford, complaining of the defendant, Lynda Y. Spratley, represents and shows:

1st. That it is a corporation duly chartered by and organized under the laws of the State of Connecticut; that its business situs is and has been since its organization Hartford, Connecticut; that the defendant is a resident of the State of Tennessee.

2nd. That at the May term, 1896, and on or about July 2nd, 1896, the defendant pretends that she recovered a judgment against the complainant in the circuit court of Shelby county, Ten-
2 nessee, for the sum of eight thousand one hundred dollars and costs of suit, on two policies of insurance purporting to have been issued to the complainant on the life of Benjamin R. Spratley.

A copy of said judgment is filed as Exhibit No. 1 to this bill, which will show the purport thereof.

3rd. That the said defendant has caused an execution to be issued on said judgment to the sheriff of Shelby county, who, at her instigation, is garnishing certain policy-holders of the complainant company to answer what they owe the company for premiums on these policies. By this means she is disturbing and harassing complainant's said policy-holders and endangering their rights under their policies. The premiums to become due on said policies are not payable in Tennessee and are not, in fact, paid in this State, where complainant has an agent or representative to receive payment. The said premiums are payable legally at the home office, in Hartford, Connecticut, but for some years past complainant has permitted the payment thereof to be made to its agent in Louisville, Kentucky, where they have in fact been paid. By the terms of all the policies the failure of the policy-holders to pay their annual premiums promptly is a cause of the forfeiture of their policies, and thus these garnishments endanger the rights of the policy-holders, and the conduct of the defendant in this behalf is inequitable and oppressive.

4th. Complainant alleges that said policies upon which said judgment was rendered were obtained by the assured upon false and fraudulent representations, and on this and other grounds they were void. There is nothing due the defendant on said policies or on said judgment, and the attempted enforcement thereof by the means stated above is inequitable and wrongful.

5th. Complainant is advised and alleges that said pretended judgment thus attempted to be enforced is void. The same was rendered against the complainant without legal service of process and was *coram non judice*. Complainant was a non-resident of the State of Tennessee, and had, as the judgment recited, "no regular officer or agency" in Shelby county, and, as complainant
3 alleges, had no office or agent in Tennessee, and had not had for some years preceding the institution of the suit on said policies. In fact, complainant alleges that it had done no business in Tennessee and had no office or agent within the State for several years preceding the said suit, and the said circuit court of Shelby county was without jurisdiction to entertain said suit and to render said pretended judgment, which was a judgment by default and without valid service of process on the complainant. It is untrue, as recited in said judgment, that complainant is or was at the instigation of the suit or has been since doing business in Shelby county or within the State of Tennessee. The summons in said suit purports to have been served "on O. N. Chaffer, special agent" of the company, "he being the highest officer or agent of said company to be found in my county." Complainant never had any agent, general or special, by the name of C. N. Chaffer, and the service of this party was without any pretense of right and utterly unavailing to bind the company.

Complainant did have a special agent for special purposes only, at the date of said pretended service of process, named O. N. Chaffer, who, it is informed, was temporarily in Memphis about that time,

and it may be that the summons was served on him, but complainant distinctly states and charges that he was and is a non-resident of Tennessee; that he was in Memphis but a few days on special business, without any office or place of business in Tennessee, and that he was not the agent of complainant to accept or to be amenable to the service of process against the complainant in Tennessee, and that he never had any such power in any shape, expressed or implied, from the complainant. He was simply a special agent for the investigation, under instructions, of doubtful or contested claims against the company at various places in the United States, and at the time of the alleged service he was temporarily in Memphis on business of this kind, and in no other respect was he the agent or representative of the complainant. He was distinctly employed

"for special service in any matters which might be referred
4 to him, with instructions, during the pleasure of the directors," and not otherwise.

But complainant is advised that in the aforesaid procedure the attempt was made to pursue the provisions of the extraordinary act of the legislature of Tennessee entitled "An act to subject foreign corporations to suit in this State," approved March 29th, 1887, and found on page 386, &c., of the Acts of 1887. Whether there has been a sufficient compliance with the terms of the statute in this case, complainant submits to the court and is willing that the entire record in the circuit-court case may be regarded as a part of this bill in order that the questions now raised on them may be now specially adjudicated; or a certified copy thereof will be filed as an exhibit to this bill. Complainant desires to make the distinct point that said statute is unconstitutional and void, and that the proceedings thereunder, if in strict conformity thereto, are utterly void and were not legal or sufficient service of process on this complainant in the said suit at law. Complainant is advised and charges that said statute is unconstitutional and void, and the attempted service of process thereunder is unavailing and of no effect, and therefore the circuit court in the suit aforesaid obtained no jurisdiction over this complainant, and the pretended judgment is void.

The said statute and procedure were not "due process of law," and the statute and the procedure thereunder violated article V of the amendments to the Constitution of the United States, which provides, among other things, that no person "shall be deprived of life, liberty, or property without due process of law," as well as the 14th amendment to the Constitution of the United States, which provides, *inter alios*, that "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

5 The said statute and proceedings resulting in said pretended judgment violated other provisions of the Constitution of the United States, as will be shown in the progress of this suit. The said statute and procedure violated also section 17 of article 1 of the constitution of the State of Tennessee, and they are

nugatory and void for all these reasons. Thus it appears that the defendant has, in violation of constitutional restrictions and without due process of law, obtained a judgment by default against this complainant and is seeking by oppressive means to enforce said judgment, all of which is contrary to equity and good conscience. Complainant states that it is a leading life insurance company of the United States of long standing; that it — abundantly solvent and at all times ready and willing to pay every just demand against it, but this demand is unjust, and the attempted means to enforce it without due process of law complainant *it* is determined to resist.

The parties on whom these garnishments have been served are as follows: S. P. Read, J. A. Omberg, J. Schillings, Geo. Cobb, Joseph Fry, Sam'l Gaby, George James, John Overton, Jr., C. N. Grosvenor, G. W. Agee, Stonewall J. York, Dr. D. D. Saunders, J. T. Fargason. The total of their cash annual premiums amount to $741.12. The premises considered, complainant prays that it be permitted to file this bill; that Mrs. Linda Y. Spratley be made party defendant thereto by process returnable to the nearest rule day; that an injunction issue enjoining her, her agent, attorneys, and officers, from further prosecution of the garnishment proceedings against its policyholders, and from issuing or causing to be issued other garnishment or otherwise seeking to collect said judgment, and that all proper interlocutory orders be made, and that on final hearing said injunction be made perpetual, and said judgment and all the proceedings thereunder, as well as the said act of the legislature, be pronounced nugatory and void and the complainant be decreed to be released therefrom, and for all further and other relief; and, as in duty
6 bound, complainant will ever pray.

This is the first application for extraordinary process.

ESTES & FENTRESS,
Sol's for Complainant.
JOHN M. TAYLOR,
JOHN M. TAYLOR,
Vice-President Con. Mutual Life Insurance Company.

STATE OF CONNECTICUT, }
City of Hartford. }

Personally appeared before me, Nathan F. Peck, a notary public in and for the city and State aforesaid, duly commissioned and qualified, John M. Taylor, the vice-president and agent of the Connecticut Mutual Life Insurance Company of Hartford, who makes oath in due form of law that the matters and things alleged in the foregoing bill are true to the best of his knowledge and belief. I certify that my commission as notary public expires on the first day of February, 1898.

Sworn to and subscribed before me on this 5th day of October, 1896.

NATHAN F. PECK,
Notary Public.

The clerk and master of the chancery court of Shelby county will issue a writ of injunction, as prayed in the foregoing bill, upon the execution of an injunction bond, with satisfactory security conditioned as prescribed by law, in the penalty of nine thousand dollars.

October 10th, 1896.

JOHN L. T. T. SNEED,
Chancellor, &c.

EXHIBIT No. 1.

Mrs. LINDA Y. SPRATLEY
vs.
7 CONNECTICUT MUTUAL LIFE INSURANCE COMPANY OF HARTFORD.

Came the plaintiff and moved the court for a judgment by default against the defendant for want of appearance or defence herein; and it appearing to the court that the defendant is a corporation organized under the laws of the State of Connecticut, but is doing business in Shelby county, Tennessee, but has no regular office or agency therein; that it issued and delivered in the county of Shelby and State of Tennessee to Benj. R. Spratley, the husband of the plaintiff, the two life-insurance contracts or policies mentioned in the declaration; that the return of the sheriff upon the writ in this cause shows that it was served, on the 15th day of April, 1896, on the defendant by reading the contents of said writ to O. N. Chaffee, special agent of the defendant, he being the highest officer or agent of said company to be found in said county at the time and being in said county on business connected with said life-insurance contracts or policies;

And it further appearing that this return was made on the 4th day of May, 1896, and that immediately the clark of this court mailed a copy of said writ and process to the defendant, at its home office, in Hartford, Conn., by registered letter; and it further appearing that the clerk has filed with the paper herein a certificate of the fact of such mailing and has made a minute thereof upon the docket of this court; and it further appearing that said certificate was filed herein on the 4th day of May, 1896, and the said minute thereof was made on the docket on the same day;

And it further appearing that the plaintiff, from the affidavit of Sylvester C. Hunham, on file herein on behalf of the plaintiff, did, on the 8th day of May, 1896, lodged with John M. Taylor, the vice-president of the defendant, at its home office, in Hartford, Conn., a notice of the bringing of this suit, which notice was accom-
8 panied by a copy of the writ of process herein and return of the sheriff thereon;

And it further appearing that by the writ herein, which was served, as aforesaid, the defendant was summoned to appear before this court on the 3rd Monday of May, 1896, that being the first day of the present term, and then and there to answer this action;

And it further appearing that the said defendant has wholly

failed to make any appearance herein; that the said defendant was solemnly called to come into open court and defend said suit, but failed to do so:

It is therefore ordered that default be and the same is now entered herein against the defendant, and that all allegations of the declaration be and the same are now taken as confessed; and it is further ordered, adjudged, and decreed that the plaintiff have and recover from the defendant the sum of $8,100.00, that being the total amount, principal and interest, due on the life-insurance contracts or policies described in the declaration, and also the costs of the case, for which let execution issue.

Cost Bond.

We, The Connecticut Mutual Life Insurance Company, as principal, and Fidelity & Deposit Company of Maryland, Baltimore, Md., as surety, acknowledge ourselves indebted to Linda Y. Spratley in the sum of two hundred and fifty dollars, to be void if the said Connecticut Mutual Life Insurance Company, complainant in a bill which has this day been filed in the chancery court of Shelby county against the said Linda Y. Spratley, shall pay all *all* such costs as may be awarded against them by the court in its decrees and orders in said cause.

This 10th day of October, A. D. 1896.

CONN. MUTUAL LIFE INS. CO.,
By ESTES & FENTRESS, *Sol's.*
9 FIDELITY & DEPOSIT CO. OF MARYLAND,
By FRANCIS FENTRESS,
Member of Local Board for Tennessee.

Attest: GEO. H. GLASSCOCK, *Agent.*

Injunction Bond.

We the Connecticut Mutual Life Insurance Company, as principal and Fidelity & Deposit Company of Maryland as surety, acknowledge ourselves indebted to Lynda Y. Spratley in the sum of sixteen thousand two hundred dollars.

The condition of the above bond is such, that whereas the said Connecticut Mutual Life Insurance Company, complainant, has this day filed its bill in the chancery court of Shelby county against the said Linda Y. Spratley, defendant, and obtained an order for the issuance of the writ of injunction, is accordance with said order, upon the execution of this bond.

Now, if the said complainant shall pay the amount of the judgment at law men ioned in the bill, with interest, damages and costs, or perform the decree of the court, in case the injunction is dossolved, and also pay such damages as may — sustained by the wrongful suing out of the injunction, then this obligation to be void, otherwise to remain in full force and effect.

Witness our hands and seals this the 10th day of October, 1896.

CONN. MUTUAL INS. CO.,
By ESTES AND FENTRESS, *Att'ys.*
FIDELITY & DEPOSIT COMPANY
OF MARYLAND,
By FRANCES FENTRESS,
Member of Local Board for Tennessee.

Attest: GEO. H. GLASCOCK, *Agent.*

10 Issued 10th day of October, 1896.

State of Tennessee to Linda Y. Spratley (Turley & Wright, attorneys), agents and attorneys, Greeting:

Whereas the Connecticut Mutual Life Ins. Co. hath lately exhibited its bill of complaint in the chancery court of Shelby county, part 1, against you, the said Linda Y. Spratley, as defendant therein, and obtained from the Honorable John L. T. Sneed, judge, & etc., an order that writs of injunction do issue according to the prayer of said bill:

We therefore, in consideration of the premises, do strictly enjoin and command you, the said Linda Y. Spratley, and all and every person, the persons before mentioned, and each and every of you, that you and every of you do absolutely desist and refrain from further prosecuting garnishment proceedings against the policyholders of the Connecticut Mutual Life Insurance Company under a judgment recovered by you in the circuit court of Shelby county for $8,100.00 against the Conn. Mutual Life Ins. Co., and from issueing or causing to be issued other garnishments or otherwise seeking to collect said judgment until further order of our said court to the contrary.

And this you shall in nowise omit, under the penalty prescribed by law.

Witness R. H. Beard, clerk and master of said court, at office, in city of Memphis, this the first Monday in October, 1896.

R. H. BEARD,
Clerk and Master,
By EDGAR T. McHENRY,
Dep. Clerk & M.

Returned endorsed as follows: Came to hand 10th day of October, 1896, and executed by reading this writ to Linda Y. Spratley October 22, 1896. W. W. Carnes, sheriff.

Subpena to Answer.

Issued the 15th day of October, 1896.

11 The State of Tennessee to the sheriff of Shelby county:

Summon Linda Y. Spratley, if to be found in your county, to appear before the chancery court of Shelby county, part 1, at the

court-house, in Memphis, Tennessee, on the first Monday in November next, then and there to answer the bill of complaint of the Connecticut Mutual Life Insurance Company, a copy of which accompanies this writ. Herein fail not, and have you then and there this writ.

Witness R. H. Beard, clerk and master of said court, at office, in Memphis, this first Monday in October, 1896.

R. H. BEARD,
Clerk & Master,
By EDGAR T. McHENRY,
Deputy Cl'k & M.

Returned endorsed as follows:

Came to hand 15 day of October, 1896, and executed by reading this writ to Linda Y. Spratley, and left with her the copy of bill October 22, 1896. W. W. Carnes, sheriff.

Motion to Dissolve Injunction.

Filed December 23, 1896.

CONNECTICUT MUTUAL LIFE INSURANCE CO.
vs.
LINDA Y. SPRATLEY.

Motion of defendant to dissolve the injunction granted herein on the face of the bill.

Defendant comes, by her solicitors, and moves the court on the face of the bill to dissolve the injunction herein, and as grounds for said motion shows:

First. If it be true, as alleged in the bill, that the non-payment of the premiums which have been garnished entitled the com-
12 plainant to forfeit the policies on which said premiums are payable, then complainant is in nowise injured or affected by said garnishments.

The fact that said garnishments may endanger the rights of policy-holders is a matter with which complainant has no legal concern.

Second. The question as to whether or not the policies upon which the judgment in defendant's favor *were* rendered were obtained upon false and fraudulent representations cannot be raised in this proceeding. If the judgment is void as alleged, that is an end of the matter. If, on the other hand, it is valid, the question as to how the policies were obtained is forever closed.

Third. It appears from the face of the bill itself that the judgment rendered in favor of the defendant is valid and binding. The bill makes the record from the circuit court of Shelby county, Tennessee, in which said judgment was rendered a part thereof. It appears from that record that the policies of insurance sued on therein were issued in Shelby county, Tenn., at the solicitation of complainant, through one of its agents who was present in Shelby county at the

time. It further appears from said record that all the facts necessary to give the circuit court jurisdiction of said case, under the act of the legislature of Tennessee entitled "An act to subject foreign corporations to sue in this State," approved March 29th, 1897, existed. Said act is constitutional and valid. The alleged misnomer of complainant's agent, Chaffe or Chaffer, upon which service was had is immaterial. The bill admits that complainant did have a special agent in this county named Chaffee upon whom service was had, or at least it does not deny that service was had on him. Defendant therefore submits that said judgment is perfectly valid and binding, but as matter of fact it appears from the circuit court record that the service then was made on said agent'- true name, O. N. Chaffee.

Fourth. It is immaterial now as to whether the original demand of defendant was just or unjust. The only question is as to the
13 validity of the judgment. If the judgment is valid, then all other questions are concluded. The defendant therefore moves the court to dissolve the injunction granted herein and to allow her to proceed in the collection of her judgment.

TURLEY & WRIGHT,
For Mrs. Linda Y. Spratley.

Order Overruling Motion to Dissolve.

Executed January 4th, 1897.

CONNECTICUT MUTUAL LIFE INSURANCE CO.
vs.
LINDA Y. SPRATLEY. } No. 10365, R. D.

This cause was this day heard upon the motion of the defendant to dissolve the preliminary injunction heretofore issued, and the motion, having been argued by counsel and fully considered by court, is overruled and the defendant required to plead or answer within 20 days.

Answer of Linda Y. Spratley.

Filed 15th day of February, 1897.

Chancery Court of Shelby County, Tennessee, Part —.

CONNECTICUT MUTUAL LIFE INSURANCE CO.
vs.
LINDA Y. SPRATLEY. } No. 10365.

Answer of the defendant, Linda Y. Spratley, to the bill filed against her herein.

This respondent, saving and reserving all proper exceptions to the manifold errors contained in said bill, for answer thereto or to so much thereof as she is advised it is material for her to answer, says:

She admits that complainant is a corporation chartered and organized under the laws of the State of Connecticut, and that
14 its situs and chief office has been since its organization in Hartford, in the State of Connecticut.

She admits that she is a resident of Shelby county, Tennessee. She admits that at the May term, 1896, and on July 2nd, 1896, one of the days of said terms, she recovered a judgment against the complainant in the first circuit court of Shelby county, Tennessee, for the sum of eight thousand one hundred dollars and costs of suit on two policies of insurance issued by complainant on the life of Benjamin R. Spratley and payable to her.

She does not admit that the copy of said judgment filed as Exhibit No. 1 to said bill is correct. She will cause to be filed herein a certified copy of the record in said cause in which said judgment was rendered, and asks that the same may be made a part of this record.

She admits that she caused execution to be issued on said judgment to the sheriff of Shelby county, Tenn., and she admits that she instructed said sheriff to serve said execution by garnisheeing various policy-holders in complainant's company to answer what was their indebtedness to said company. She did this because she could not find any other class or kind of property belonging to complainant in the State of Tennessee. She denies that by this means she is disturbing and harrassing the policy-holders of complainant and endangering their rights under their policies.

She denies that the premiums due by the parties garnisheed are not payable in Tennessee. On the contrary, she avers that said policy-holders who have thus been garnisheed have constantly from the time their policies were issued to them down to a short time before she began her suit in the circuit court against complainant paid their said premiums to and received receipts for same from an agent or depository of complainant in the State of Tennessee.

She denies that said premiums so garnisheed are payable legally at the home office in Hartford, Conn. She denies that for
15 some years past such premiums have been paid te the agent at Louisville, Ky. On the contrary, she avers that up to a short time before she began her suit in the circuit court against complainant its practice was to send the receipts for the premiums due from the various policy-holders mentioned in the bill as having been garnisheed under the execution sued out on said judgment in the circuit court to the Union & Planters' Bank of Memphis, Tenn., or to some other bank in Memphis, Tenn. Said premiums were then paid into said bank as the depository or agent of complainant, and the premium receipts delivered by said bank to said policy-holders. After the death of said Benjamin R. Spratley, the husband of respondant, the complainant denied liability upon the two policies of insurance which it issued upon his life, payable to respondant. It was only after denying its liability on these policies that complainant ceased to send said premium receipts to said Union & Planters' bank or to some other bank in the city of Memphis, and

insisted that the premiums be paid in Louisville, Ky., or Hartford, Conn.

Respondent avers that this cau-se was taken with the express purpose of attempting to defeat the jurisdiction of the court- of Tenn. over complainant, and for the purpose of preventing respondent, if possible, from suing complainant on said policies in the courts of Tennessee. It was also done for the further purpose of preventing, if possible, or at least hindering and delaying respondent in the collection of any judgment which she might obtain in the courts of Tennessee on said policies.

Respondent has never seen the policies held by the various policy-holders garnisheed under the execution issued on her said judgment, and cannot, therefore, speak as to the contents of said policies; but she denies that the payment of premiums due complainant on said policies under the aforesaid garnishees could or would subject said policy-holders to any forfeiture of their said policies.

16 She denies that there is nothing due her on said judgment. On the contrary, she avers that the full amount of said judgment, with interest thereon, is due her, and she denies that the enforcement thereof through the garnishment proceedings referred to in the bill or in any other way is or will be -equitable or unjust.

She denies that said judgment is void. She denies that it was rendered without legal service of process against complainant. She denies that it was *coram non judice*.

She admits that complainant was a non-resident of the State of Tennessee at the time her said suit was brought and at the time said judgment was rendered.

She admits that when said suit was brought complainant had no regular office or legal agency in Shelby county or in the State of Tennessee, and that it had no such office or legal agency in Tennessee for some years preceding the institution of her said suit.

She denies that complainant has done no business in Tenn. for several years preceding the institution of said suit. On the contrary, she avers that complainant has been constantly doing business in the said State. She denies that said circuit court of Shelby county was without jurisdiction to entertain said suit and to render said judgment.

She denies that the recitals in said judgment "that complainant was doing business in Shelby county" is untrue. On the contrary, she avers that said recital was true, and she avers that complainant was at the time of the institution of her said suit and when said judgment was rendered and is now doing business in Shelby county, of the State of Tennessee.

She further avers that complainant at the time said suit was instituted and at the time said judgment was rendered and at the present time is doing business in the State of Tennessee and Shelby county without having complied with the laws of Tennessee regulating the manner in which foreign insurance companies are allowed to do business in this State.

17 She denies that the summons in her said suit purports to have been served "on O. N. Chafer, special agent" of complainant, "he being the highest officer or agent of said company to be found in my county." On the contrary, the return of the sheriff who served said summons is as follows: "Came to hand April 15th, 1896, and executed same day on the Connecticut Mutual Life Ins. Co. of Hartford, Conn., by reading the contents of this writ to O. N. Chaffee, special agent, he being the highest officer or agent of said company to be found in my county, whom I am informed was in my county on business connected with the subject-matter of this suit. This May 4th, 1896. J. J. Carver, sheriff of Shelby county, Tennessee, by Hugh B. White, deputy sheriff." It may be true that complainant never had any such agent, general or special, as O. N. Chaffer, but it certainly did have, as admitted in the bill, as special agent at the time said service was made named O. N. Chaffer, and the service was made on that person.

It is true that the said O. N. Chaffer was temporarily in the city of Memphis, county of Shelby and State of Tennessee, at the time said service was made on him, but it is also true that he was here, sent by complainant, for the special purpose of examining into and conferring with respondent or her agents with reference to the two policies of insurance upon which said judgment is based.

It is true that he had no special office or place of business in Memphis or in the State of Tennessee, but he was amenable to service of process in a suit brought against complainant growing out of transaction had in whole or in part within the State of Tennessee.

And now respondent shows that the two policies upon which said judgment is based *was* issued by complainant to her husband, Benjamin R. Spratley, in the State of Tennessee; were delivered to him in this State, and every premium which was paid on said policies was paid to complainant in this State. The entire transaction in which complainant issued said policies took place within the State of Tennessee.

18 And respondent now again avers that the said Chaffer was amenable to service in her said suit, and said service was perfectly valid and legal and served to bring complainant before the court in said suit.

Respondent is not informed as to the scope and extent of the express powers given to said agent, Chaffee, by complainant, but undoubtedly he was its agent and was in the State of Tennessee at the time said suit was brought, representing complainant and negotiating with reference to said policies upon which said judgment was based.

Respondent admits that her said suit in the circuit court was brought and pursued under the provisions of the act of the General Assembly of the State of Tennessee entitled "An act subjecting foreign corporations to suit in this State," approved March 29th, 1887, and found on page 366, etc., of the Acts of 1887.

She shows further that all the requirements of said act were complied with in her said suit, as will appear from an inspection of the certified record thereof, which will be filed herein. She de-

nies that said act is unconstitutional and void. She denies that proceedings taken in conformity therewith are void and of no legal effect. She denies again that said act is unconstitutional, and that the service of process had upon complainant's agent thereunder is -constitutional and of no effect. She denies that said statute and procedur*d* thereunder are not "due process of law," and she denies that said statute violates article 5 of the amendments of the Constitution of the United States, or that it violates the 14th amendment of the Constitution of the United States, or that it violates any other provision of the Constitution of the United States. She also denies that the said statute and the proceedings had thereunder violate sec. 17, art. 1, of the constitution of the State of Tennessee, or that it violates any other provision of the constitution of the State of Tennessee. She admits that the complainant is a very large life insurance company, and she hopes it is solvent;
19 but she denies that it is at all times ready and willing to pay any judgment or demand against it. It is in this very proceeding attempting to defeat a perfectly just and legal judgment and demand which it ought to have long since paid. She supposes that the bill correctly sets forth the names of the various persons who were served with garnishments in her suit in the circuit court. If it does not do so, then the certified transcript of the record of said case will give said named correctly. She does not know the amount of the annual premiums due from said garnishees to complainant. She supposes the amount set forth in the bill is correct, but if necessary the true amount can be shown.

And now, having answered so much of the bill as she is advised she ought to answer, she demurs to that part of the bill which alleges that the policies upon which her said judgment is based were procured by misrepresentations, &c., and, for ground of demurrer, shows that the only question which can be enquired into under the bill is as to the validity of her said judgment. No other question can be looked to. She asks that the injunction granted herein may be dissolved and the bill dismissed.

TURLEY & WRIGHT,
For Mrs. L. Y. Spratley.

Deposition of John M. Taylor.

Filed March 16th, 1897.

Chancery Court of Shelby County, Tennessee.

Caption.

CONNECTICUT MUTUAL LIFE INSURANCE COMPANY
vs.
LINDA Y. SPRATLEY.

20 Deposition of John M. Taylor, witness for complainant in the above cause, taken before me upon the attached direct and cross interrogatories on the 8th day of March, 1897, at Hartford, Connecticut.

The said witness, JOHN M. TAYLOR, aged 52, being duly sworn, deposed as follows:

1st interrogatory by complainant. Where do you reside, what is your age, what official relation, if any, do you sustain to the Connecticut Mutual Life Insurance Company, and how long has that relation sustained?

Answer to 1st direct interrogatory. Hartford, Connecticut; 52 years; assistant secretary, October 1, 1872, to March, 1878; secretary, March, 1878, to March, 1884; vice-president since that date.

2nd intr. by same. State whether said Connecticut Mutual Life Insurance Company ever did business within the State of Tennessee with agents and officers in said State. If you answer "yea," please state when it began to do business in the State, at what point it had offices, and how long it continued to do business in the State.

Answer to 2nd direct interrogatory. The company transacted business in the State of Tennessee from February 1st, 1870, to July 1st, 1894. Its only agency was located at Memphis, in that State, where its agent had his office.

3rd intr. by same. At what date did the company withdraw its agents from that State and for what reason?

Answer to 3rd direct intr. The company withdrew from the State July 1, 1894, and terminated its agency because of the excessive mortality of its members insured in the State of Tennessee and of the excessive rates of taxation imposed by the State on its business there.

4th inter. by same. After the withdrawal of the agents
21 from the State of Tennessee was any business done in the way of taking risks in the State by the company through its agent at Louisville, Ky.? And, if yea, state whether this business was limited or large and state the reason for doing this business.

Answer to 4th direct intr. After its withdrawal from the State no risks whatsoever were written by the company through its agent at Louisville, Kentucky, in the State of Tennessee.

5th inter. by same. At what date did the company withdraw all agents and business from the State of Tennessee, and about what is the date of the last policy issued by it on any life in Tennessee?

Answer to 5th direct inter. July 1st, 1894. The last policy issued by the company on any life in Tennessee was dated —— 7, 1893.

6th inter. by same. Within the last few years prior to the withdrawal of all business from Tennessee where were the premiums of all policy-holders payable according to the contracts of the policiec? And, if you can do so, file as Exhibit No. 1 to your deposition a blank copy showing the terms of such contracts.

Ans. to 6th direct inter. All premiums were payable, by the terms of the company's applications and policies, which together constitute its contracts, at the company's office, in Hartford, Connecticut. I annex hereto and make part of this deposition the company's application and policy blanks, marked Exhibit "A" and Exhibit "B."

7th inter. by same. Why did the company, after withdrawal of its agents from Tennessee, permit for a while payment of premiums in the Union & Planters' Bank of Memphis?

Ans. 7th to direct inter. The company, after its withdrawal, did not permit payment of premiums at the Union & Planters' Bank of Memphis. It sent no collections to that institution and had
22 no relations with it. When the company withdrew from the State and notified its agent, James S. Carpenter, of its action he had sent to this bank as his correspondent and at his own risk some renewals on Tennessee lives for collection, the last one being sent August 14, 1894, and this business was transacted under the company's license from the State, which did not expire until January 1, 1895.

8th inter. by same. When and for what reason did the company finally disallow payments through this bank? State whether this Spratley demand or anything connected with it had anything to do with the disallowance of payments of premiums through that bank at Memphis.

Ans. to 8th direct inter. The company disallowed all payments through this bank or elsewhere in Tennessee to its agent, Carpenter, to make sure that its withdrawal was complete and unquestionable in all respects. Its action had no relation to the claim or demand involved in the present suit, which did not occur and was not presented until more than a year and a half after the company's withdrawal, July 1, 1894.

9th inter. by same. When the Connecticut Mutual Life Insurance Company began its business in Tennessee and during the continuance of such business, please state whether or not it complied with the statutory requirements of the State and whether it paid the license fees or other taxes imposed upon it by the laws of Tennessee for doing such business.

Ans. to 9th direct inter. From its entry in the State to transact business, in 1870, to its withdrawal, in 1894, the company complied with every statutory requirement and paid all licenses, fees, and taxes imposed by the State for doing business in it.

10 inter. by same. Up to what time did the company continue to pay these fees and taxes and why did it cease?

23 Ans. to 10 direct inter. To July 1, 1894. It ceased to pay them and withdrew because of the excessive taxes imposed by the State as a condition of doing business there.

11th inter. by same. Please state whether or not the company complied with the requirements of the act of Tennessee of 1875 by filing in legal form "with the insurance commissioner a power of attorney authorizing the secretary of the State to acknowledge service of process for and on behalf of such company at any and all times after the company had once complied with the laws of Tennessee and been regularly admitted, even though the company might subsequently retire from the State or be excluded."

Ans. to 11th direct inter. It did so comply in all respects and filed with the authorities the required power of attorney, and I annex herewith as a part of this deposition a copy of the same, marked Exhibit "C."

12th inter. by same. Please state whether or not after filing this power of attorney and complying with other legal requirements the company was regularly admitted to do business in the State of Tennessee and whether it continued to do business in the State, as you have already stated, without objection on the part of the State authorities.

Ans. to 12th direct inter. The company was regularly admitted on compliance with the laws of the State in 1870 and continued to do business in Tennessee without objection by the State authorities to the time of its withdrawal.

13th inter. by same. Please state whether this power of attorney was ever withdrawn or revoked in any manner.

Ans. to 13th direct inter. The power of attorney mentioned in my answer to direct interrogatory 11th has never been withdrawn or revoked.

24 14th inter. by same. Please state with care and accuracy what relation, if any, one O. N. Chaffee sustained to the Connecticut Mutual Life Insurance Company in April and May, 1896.

Ans. to 14th direct. inter. O. N. Chaffee was employed by this company June 7, 1887, and is still employed by it for a special purpose and no other, to wit, to investigate doubtful or questionable death claims and report the facts to the company for its action. He had no authority, duty, or service other than to act under the company's special instructions, as an employee, in the investigation and adjustment of this class of claims. In April and May, 1896, he was performing these special duties, and no other. He had no authority to bind the company by a settlement of any claim or make any proposition or any binding contract for it, unless specially empowered by the company after receiving and considering the report he was employed to make. He had no other authority in the Spratley case.

15th inter. by same. Please state whether he was the agent or the mere employé of the company, and if you have the written evidence

of his employment please file a true copy of such power as Exhibit No. 2 to your deposition.

Ans. to 15th direct inter. He was and is the employee of the company for the special purpose mentioned in my last answer, and was not and is not an agent of the company. The company has his letter of appointment, and I annex a copy herewith as a part of my deposition, marked Exhibit "D."

16th inter. by same. State whether or not since his first employment to May, 1896, there has been any change or enlargement of his authority, and whether in May, 1896, he represented the company in any manner different from that stated in your Exhibit No. 2.

Ans. to 16th direct inter. There has been no change or
25 enlargement of his authority or duties since his appointment, and in May, 1896, he represented the company in no different respect than as stated in his appointment.

17th inter. by same. State whether or not Mr. Chaffee was in May, 1896, or before or since the representative of the company to acknowledge or accept service for it of legal process or to be served with legal process.

Ans. to 17th direct inter. Mr. Chaffee has never been this company's representative to acknowledge or accept for it service of legal process or to be served with legal process.

Cross-examination of JOHN M. TAYLOR:

Defendant, Linda Y. Spratley, excepts to the 7th interrogatory-in-chief above. It is immaterial what the reason was that induced the plaintiff to permit the payments of premiums to be made to the Union & Planters' Bank of Memphis. Saving this exception, she proceeds to cross-examine as follows:

Int. 1. Pleas- state if for many years J. S. Carpenter or the firm of J. S. Carpenter & Co. were not the agents of the Connecticut Mutual Life Insurance Company in Tennessee, with an office and headquarters in Memphis, Tenn.

Ans. to 1st cross-inter. J. S. Carpenter & Co. were this company's agents in Tennessee, with an office in Memphis, from February 1st, 1870, to December 1st, 1876.

2 Int. State when J. S. Carpenter or the firm of J. S. Carpenter & Co. moved his or their office from Memphis, Tenn., and state to what point the office was moved.

Ans. to 2nd cross-inter. J. S. Carpenter moved his office from Memphis, Tenn., to Louisville, Kentucky, Dec. 1, 1878.

26 3rd inter. State exactly how long J. S. Carpenter or J. S. Carpertet & Co. had an office in Memphis, Tenn., as agents of the Connecticut Mutual Life Insurance Co., and state within what territory J. S. Carpenter or J. S. Carpenter & Co. represented said company while he or they had an office in Memphis, Tenn.

Ans. to 3rd cross-inter. J. S. Carpenter & Co. had an office in Memphis, Tennessee, from Feb. 1, 1870, to Dec. 1, 1878. Their territory was the State of Tennessee.

4 inter. State exactly when it was that the Connecticut Mutual Life Insurance Co. last had its last agent in Tennessee who kept an office in that State, and state who this agent was and where said office was kept, and state when said agent was withdrawn from Tennessee.

Ans. to 4th cross-inter. Dec. 1, 1878, this company had its last agent in Tennessee who kept an office in Tennessee. They were J. S. Carpenter & Co. Their office was in Memphis, Tennessee, Dec. 1, 1878. The company appointed James S. Carpenter its sole agent for Kentucky and Tennessee, and he then established his agency and office at Louisville, Kentucky, and discontinued his Memphis office. His agency for Tennessee was cancelled, and the company withdrew from the State July 1, 1894.

5th inter. State the date of the last policy issued by the Connecticut Mutual Life Insurance Co. to a citizen or resident of Tennessee. Give the exact date and state when and how said policy was issued and to whom it was issued.

Ans. to 5th cross-inter. August 7, 1893. The policy was issued at the company's home office in usual course and sent to its agent, James S. Carpenter, at Louisville, Kentucky, for collection of the premium. It was issued to Geo. E. Spencer, of Harriman, Tenn.

6th. State fully everything which has been done by the Connecticut Mutual Life Insurance Co. with reference to complying with the laws of Tennessee regulating the manner in which foreign life insurance companies shall or may do business in said
27 State. Answer this fully, giving every step and everything done by the Connecticut Mutual Life Insurance Co. under said laws.

Ans. to 6th cross-inter. I am unable to state everything that has been done by this company in so long a period, 1870 to 1894, to comply with the laws of Tennessee regulating the manner in which foreign life insurance companies may do business there, but do state that while in the State the company filed its power of attorney, paid its taxes and fees, and complied with the laws and every requirement of the State officials to their satisfaction and without objection until the company's withdrawal, as may also be noticed by the files, records, and correspondence of the insurance department at Nashville.

7th. Is it not a fact that the Connecticut Mutual Life Insurance Company has had a controversy with the insurance commissioner of Tennessee or with some officer representing the insurance department over its liability for license, taxes, or other taxes, and is it not a fact that in this controversy the Connecticut Mutual Life Insurance Co. claimed that it was not doing business in Tennessee, and is it not a fact that in the course of this controversy considerable correspondence passed between the Connecticut Mutual Life Ins. Co. and said insurance commissioner of Tennessee or other officer representing the insurance department of Tennessee? If you say there was such a controversy and that correspondence ensued in consequence thereof between the Connecticut Mutual Life Insurance Company and the insurance department of Tennessee or any official of Tennessee,

please produce and file copies of their correspondence as part of your deposition.

Ans. to 7th cross-inter. This company has had no controversy with the insurance commissioner or with any other officer of the insurance department or representing it as to taxes or license taxes.

After its withdrawal from the State it ceased to be liable
28 to pay taxes imposed by the State for doing business therein.

The company stated its views and denied any liability on this account in a correspondence with E. B. Craig, the insurance commissioner of the State, and no taxes have been collected, demanded, or paid since the correspondence closed. I annex hereto and make part of my deposition copies of the correspondence with the insurance commissioner, marked Exhibits E, F, G, H, and K.

8. Please state if the Connecticut Mutual Life Insurance Co. has not formerly notified the proper officers of the State of Tenn. that it has withdrawn from doing business in said State, and if it has given such notification give the date thereof and copy of same, making said copy part of your deposition.

Ans. to 8th cross-inter. The company formerly notified the proper official of the State of Tennessee of its withdrawal from doing business in the State in a letter to Ho-. E. B. Craig, insurance commissioner, July 21, 1894. I have annexed hereto a copy of said letter, marked Exhibit E in my answer to the last cross-interrogatory, and make it a part of this deposition.

9. Is it not a fact that since the company has given the above notification, showing its withdrawal from the State of Tennessee, that citizens and residents of Tennessee have applied either to the home office of the company or have applied to some agent of the company in another State for policies, and that upon such applications policies have been issued by the company to citizens and residents of Tennessee?

Ans. to 9th cross-inter. It is not a fact that the company has written such risks upon citizens of Tennessee, to my knowledge. It has refused to receive such applications or to write upon them.

10. If you produce a blank policy as Exhibit No. 1 to your deposition, then state if from time to time the form of policies in your company has not been changed.

Ans. to 10th cross-inter. The forms of policies have been changed from time to time, but the notice and requirement of paying
29 premiums at the home office of the company have been in our contracts for more than twenty-five years.

11. Please state how many policies of the company are outstanding in Shelby county, Tenn., and during what periods said policiesholders were allowed to pay their premiums to the Union and Planters' Bank of Memphis or some other bank in Shelby county, Tenn., and state the date when the company ceased to send the premium receipts for policies outstanding in Shelby county, Tenn., to the Union & Planters' bank or any other bank in Shelby county, Tenn.

Ans. to 11th cross-inter. We have no means of knowing how many of the company's policies are outstanding in Shelby county,

Tenn., as our registers are not kept by counties, and there is no separate classification of this kind. We know nothing of James S. Carpenter's relation with the Union & Planters' Bank of Memphis or with any other bank in Shelby county as to the collection of premiums. The company never sent any premiums receipts on policies outstanding in Shelby county, Tennessee, or elsewhere to this bank or in any other bank in Shelby county for collection.

12. Please state how long Mr. O. N. Chaffee has been employed by the Connecticut Mutual Life Insurance Company and in what capacity he has been employed by it. Answer this question in full.

Ans. to 12th cross inter. Mr. Chaffee has been employee of this company since June 7, 1887, in the capacity and for the special purpose fully mentioned in my answers to direct interrogatives 14, 15, and 16 of this deposition.

13. Is it not a fact that Mr. O. N. Chaffee was sent by the Connecticut Mutual Life Insurance Company on or about May, 1896, on or between the date of Mr. Spratley's death and the commencement of the suit by Mrs. Spratley in the circuit court at Memphis, Tenn., to look into the claim being made by Mrs. Linda Y. Spratley on the policies issued to her husband?

30 Ans. to 13th cross-inter. Mr. Chaffee, in May, 1896, was sent to Memphis, Tenn., to investigate and report the facts affecting the claims presented by Linda Y. Spratley on two of this company's policies on the life of Benjamin R. Spratley. The investigation and Mr. Chaffee's report showed that Spratley died either by suicide or from an overdose of chloral or morphine following a spree and in violation of the condition of the policies, which caused the company's refusal to pay these claims.

14. After the Connecticut Mutual Life Insurance Company withdrew its agents and agencies from Tenn. is it not a fact that its agent or *or* agents at Louisville, Ky., or at other places outside of Tenn., come into Tenn., issued and solicited business, and took applications for policies in Tenn.? State to what intent this was done and how many policies were issued in this way by said Co. to citizens of Tenn.

Ans. to 14th cross-inter. After this company's withdrawal from Tennessee this company has no knowledge that its agent at Louisville, Ky., or at any other place outside of Tennessee, came into that State to solicit or take applications for policies in Tennessee. We have no reason to believe that such action was taken, and no such business was written.

(Signed) JOHN M. TAYLOR.

Certificate.

The foregoing deposition was taken before me, as stated in the caption, and reduced to writing by me, and I certify that I am not interested in the case nor of kin or counsel to either of the parties, and that I sealed it up and put it in the post-office, without being

out of my possession or altered after it was taken, addressed to R. H. Beard, clerk and master of the chancery court, Memphis, Tenn.

Given under my hand the 13th day of March, 1897.

CHARS. E. THOMPSON,
Notary Public.

31 HARTFORD, CONNECTICUT.

And I hereby certify that my commission is dated February 1, 1896, and will expire February 1, 1898.

(Map here.)

"C."

EXHIBIT TO TAYLOR'S DEPOSITION.

Insurance companies.

(Not organized in Tennessee.)

Know all men by these presents: That the Connecticut Mutual Life Insurance Company, a corporation created by and organized under the laws of the State of Connecticut, and thereby authorized to transact the business of life assurance, desiring to transact such business within the State of Tennessee, pursuant to the laws thereof, does, by these presents, authorize the secretary of state in *in* and for said State of Tennessee, to acknowledge service of all legal process, whether mense or final for and in behalf of it, and the said corporation above named, in said State of Tennessee, in any judicial proceeding which may, within the said State of Tennessee, be instituted against it the said company, or to which it may be a party; and the said company does hereby, in consideration of the privilege of doing business in said State aforesaid, consent to and with said State of Tennessee for the benefit of all persons concerned, that service of any such process upon such secretary of state shall be taken and held to be valid as if served upon it, the said company above named, according to the laws of said State of Tennessee, or of any other State, and the said company does hereby further consent that in case it, the said company above named, shall
32 cease to transact business in the said State of Tennessee, said secretary of state shall be considered and held as continuing to be attorney for it, the said company, for the purpose of process as aforesaid, in any action against it, the said company above named, upon any policy or liability issued or contracted during the time the said company transacted business in the said State of Tennessee.

In witness whereof, the said company, in accordance with a resolution of its board of directors, duly adopted by said board on the 17th day of March A. D. 1876, (a certified copy whereof is hereunto attached), hath — these presents affixed its corporate seal, and caused the same to be subscribed and attested by its president and secretary,

at the city of Hartford in the State of Connecticut on the 17th day of March A. D. 1876.

JAMES GOODCOM, *President.*

Attest: JACOB S. GREEN, *Secretary.*

Certified Copy of a Resolution Duly Adopted by the Board of Directors of the Connecticut Mutual Life Insurance Company (of and Incorporated under the Laws of Connecticut) on the 7 Day of March, A. D. 1876.

I, Jacob S. Green, undersigned, secretary of the Connecticut Mutual Life Insurance Company of Hartford, Conn., do hereby certify that the following is a true and correct copy from the corporate records of the said company of a resolution duly adopted by the board of directors thereof at a regular meeting of said board, a quorum thereof present and acting, on the 17 day of March, 1876—that is to say:

Resolved, That the president and secretary of this company are hereby authorized to execute, under the corporate seal of the company, a power of attorney, in accordance with the insurance laws of the State of Tennessee, to the secretary of state.

Given and certified at the principal office of said company, in the city of Hartford, State of Connecticut, and the common seal thereof hereto affixed by the undersigned, having custody of the
33 same as secretary of said company, this 17 day of March, 1876.

JOHN L. GREEN, *Secretary.*

I, E. B. Craig, insurance commissioner, do hereby certify that the foregoing is a true and correct copy of the power of attorney now on file in my office constituting and appointing the secretary of state attorney for service of process for the Connecticut Mutual Life Insurance Company.

In witness whereof I have hereunto set my hand and caused the seal of my office to be affixed this 20th day of February, 1897.

E. B. CRAIG,
Ins. Commissioner.

EXHIBIT "D" TO TAYLOR'S DEP'N.

HARTFORD, *June* 7, 1887.

O. N. Chaffee, Esq., Grafton, Illinois.

DEAR SIR: Referring to President Green's recent interview with you, we have to make the following proposition:

This company to employ you, for special service in any matters which may be referred to you with instructions during the pleasure of the directors of the company and under the direction of the executive officers; to have your entire time and services, except upon leave of absence; to pay the necessary traveling and hotel expenses incurred in the line of your duty, and to pay you for your time and

services at the rate of twenty-five hundred dollars ($2,500) per annum; this agreement terminable on the part of the company at the pleasure of directors and on your part by thirty days' written notice.

Please signify your acceptance of this proposition if it meets your views. If accepted this will take effect July 1st next.

Respectfully yours, W. G. ABBOTT, *Secretary.*

34 EXHIBIT "E." J. M. T.

Copy.

HARTFORD, *July* 21, 1894.

Hon. E. B. Craig, insurance commissioner, Nashville, Tennessee (through Mr. James S. Carpenter).

DEAR SIR: I have the honor to hand you herewith New York exchange to your order in the sum of $568.95, in full settlement and payment of the taxes due to the State of Tennessee under its present statutes, and *the* following the advise of your general letter of July 1st instant, together with the return certified by myself as an officer of the company. Kindly note that this company, as of the first day of July instant, ceased to do business in the State of Tennessee and it has and will have no agents or representatives therein, and its withdrewal from the State will in no way, we understand, be liable for taxes, fines, or fees under the statutes relating to the transaction of business by the life-insurance companies of other States.

Respectfully yours, JOHN M. TAYLOR, *Vice-P.*

Copy.

EXHIBIT "F." J. M. T.

NASHVILLE, *May* 10, 1895.

Connecticut Mutual Life Insurance Co., Hartford, Conn.

DEAR SIR: I had a correspondence with you on or about the date of your last payment of taxes to this State, namely, July
35 1st, 1894, in reference to your liability for taxes on your premiums received from policy-holders in this State as renewal premiums. At the time you were informed that it was our construction of the law that the fact that you had ceased the transaction of business only to the extent of ceasing to solicit new business would not relieve you from the payment of the $2\frac{1}{2}$ — tax on premiums received on policies already in force in this State. On January 1st last the usual blank for remitting tax due was forwarded to you, but you have failed to respond. We have obtained an official opinion from the attorney general of the State confirming our construction of the tax law, and unless you make payment at once we will be compelled to proceed to collect the tax by action at law, and should we be forced to this action will endeavor to collect the penalty accrued.

I inclose you blank for return and payment of tax on premiums

received from July 1st, 1894, to January 1st, 1895, and sincerely hope you will make the required payment promptly and thus save us the necessity of taking the steps indicated above.

Yours very truly, E. B. CRAIG, *Ins. Com.*

Copy.

EXHIBIT "G." *L.* M. T.

MAY 17, 1895.

Hon. E. B. Craig, insurance commissioner, Nashville, Tenn.

DEAR SIR: We have your favor of May 10th instant, in which we note your present opinion and that of the attorney general of your State, that this company is liable for a tax upon premiums
36 on policies on the lives of citizens of Tennessee, following previous correspondence in this behalf.

We are as clear now as on the former occasion, when we advised you of our views, that the company is in no proper sense or under any proper construction of your law liable for that tax, *and* substantial reasons that it seems idle to discuss in the presence of your demand and the probability of the litigation which you propose to inaugurate. We will thank you, however, to pay us the courtesy of a sufficient delay to refer the questions at issue to counsel in your State, in which opinion we have every reason to repose great confidence, and upon receipt of that opinion you will be immediately advised of the company's action in the premises.

We reciprocate the regret you express for any necessity that you may feel to institute legal proceedings, but we have, on the other hand, as we now view the situation, a duty imposed upon us in the protection of our members' interest, which admit of no question.

Trusting that it will be agreeable to you to withhold action pending the receipt of the opinion mentioned, and that you may duly advise us of your consent to delay for this sole purpose, I am,

Respectfully yours, JOHN M. TAYLOR,
Vice-President.

Copy.

EXHIBIT "H." J. M. T.

Department of insurance, State of Tennessee—E. B. Craig, commissioner.

NASHVILLE, *May 20th*, 1895.

Conn. Mutual Life Ins. Co., Hartford, Conn.

37 DEAR SIR: I am in receipt of your favor of the 17th instant and note request contained therein.

We have no objection to allowing you a reasonable time in which to confer with your attorney in this State relative — your liability to the payment of the tax demanded by this department, and will defer any action for the present, awaiting further advice from you.

Yours very truly, E. B. CRAIG, *Ins. Com.*
WELLS.

Copy.

EXHIBIT "K." J. M. T.

MAY 27, 1895.

Hon. E. B. Craig, insurance commissioner, Nashville, Tennessee.

DEAR SIR: With thanks for your courtesy following recent correspondence as to taxes under your laws, I beg to say that we have referred the matter to counsel in your State, in whose opinion we have entire confidence, and the company will not pay the tax, because it is not liable for it, following his advice. The opinion is rendered by Hon. B. M. Estes, of Memphis, upon a complete understanding of all the facts and circumstances of the company's withdrawal from the State of Tennessee.

Respectfully yours, JOHN M. TAYLOR,
Vice-President.

Deposition of O. N. Chaffee.

Filed March 18, 1897.

38 In the Chancery Court of Shelby County, Tennessee, Part One.

Caption.

CONNECTICUT MUTUAL LIFE INSURANCE COMPANY *vs.* LINDA Y. SPRATLEY. } Chancery Court of Shelby County, Tenn.

Deposition of O. N. Chaffee, witness for complainant in the above cause, taken before me upon the attached direct and cross interrogations, on the 15th day of March, 1897, at Hartford, Connecticut.

1st ques. by complainant. State your age, place of residence, and employment.

Ans. to 1st direct interrogatory. Detroit, Michigan; 61 years. I am in the employment of the Connecticut Mutual Life Insurance Company in the manner stated in my answer to the 2nd direct interrogatory.

2nd ques. by com. In what business were you employed in March and April, 1896? If you say you were employed by the Connecticut Mutual Life Insurance Company, please state carefully and accurately the terms of your employment.

Ans. to 2nd direct inter. In March and April, 1896, I was employed in the service of the Connecuticut Mutual Life Insurance Company, and the terms of my employment are contained in the letter of the company employing me, a copy of which is appended, marked Exhibit "A," and made a part of this deposition.

3rd ques. by com. If you were in Memphis, Tennessee, in April, 1896, state why you were there and what power or authority you

had from the Connecticut Mutual Life Insurance Company to bind it in any manner.

Ans. to 3rd direct inter. I was in Memphis, Tennessee, in March and April, 1896, by order of the company contained in a
39 letter dated March 20th, a copy of which is appended, marked Exhibit "B," and made a part of this deposition. I had no authority or power from the company to bind it in any manner.

4th ques. by complainant. State whether or not at that time you were empowered by the company to bind it by any settlement of Mrs. Spratley's claim.

Ans. to 4th direct inter. I had no authority to bind the Connecticut Mutual by any settlement of Mr. Spratley's claim.

5th quest. by com. State carefully and circumstantially the facts pertaining to your visit to Memphis at that time and whether you represented to any one or to S. J. York that you had authority to bind the company by settlement or otherwise of the Spratley claim.

(Defendant excepts to the 4th question as submitted to O. N. Chaffee because it calls for his opinion as to the extent of his authority, and for the same reason defendant excepts to any answer which may be given to said question. Reserving this exception, defendant cross-examines as follows:)

Ans. to 5th direct inter. While in Memphis at that time I enquired of several persons as to the habits and the circumstances of the death of Benjamin R. Spratley, and made a report to the company of the facts ascertained. I had no authority to bind the company by settlement or otherwise of the Spratley claim, and did not represent to S. J. York or any one else that I had such authority. On the contrary, I distinctly stated to S. J. York that I had no such authority.

Cross-examination as follows:

1. Is it not a fact that you were sent to Memphis in April, 1896, or about that time, by the complainant, The Connecticut Mutual Life Insurance Company, to examine into the claim made by defendant, Mrs. Linda Y. Spratley, upon the two policies issued by said company upon the life of her husband, Benj. R. Spratley?
40 Is it not further a fact that you came to Memphis for complainant company on this business; that when you reached Memphis you had an interview with Mrs. Linda Y. Spratley and afterwards had interviews with her brother, Mr. S. J. York? If you say you came to Memphis on this business, then please state in detail everything you did in connection therewith while you were in Memphis.

Ans. to 1st cross-inter. I was sent to Memphis, Tenn., in March, 1896, by the Connecticut Mutual Life Insurance Company to ascertain and report the facts as to the habits of Benj. R. Spratley and the circumstances of his death, and while there had interviews with Mrs. Linda Y. Spratley, in which she stated that her husband, Benj. R. Spratley, had been in the habit of going on sprees frequently ever since the date of their marriage; that when on these sprees he

was in the habit of absenting himself from their home for several days at a time, and that on many of these occasions her brother, S. J. York, had gone about the city of Memphis searching for him; that her husband had been with her from 6.30 to 10.00 p. m. the day before his death, and was then in a drunken condition and insulted and illtreated her, and told her finally, in reply to her entreaties to stay there at her mother's residence, that he "didn't care a dam- what she wanted" and went away, and was found the next morning in a dying condition in a room which he had rented. I had an interview also with the mother of Mrs. Spratley, who fully confirmed the statement of her daughter as to the intemperate habits of Spratley, extending over many years; and I had an interview with S. J. York, who did not deny the statements which I made to him as to the habits of Spratley, as reported to me by his mother and sister. I also interviewed the people who discovered Spratley in a dying condition and the physicians who afterwards had him under their care till the time of his death. I made a report to the company of these statements and facts, showing that
41 Spratley had been grossly intemperate for many years before he applied for the policies, and died either by suicide or an overdose of morphine taken after a spree.

2nd Ques. Is is not a fact that while you were in Memphis looking into this claim on said two policies that you communicated with the officers of the complainant company, and is it not a fact that on the 13th of April, 1896, or about that date, you received a dispatch from Mr. John M. Taylor, vice-president of the complainant, addressed to you at the Gayoso hotel, in Memphis, Tenn., in which he said, "We think case should be settled for reserve or *or* thereabouts;" is it not a fact that this telegram referred to the claim upon the two policies issued upon the life of Benj. R. Spratley? Please produce and file the original- of said telegrams as part of your deposition.

Ans. to 2nd cross-inter. After I had made my report to the company I received a telegram, addressed to me, care of Gayoso hotel, Memphis, Tenn., in these words: "We think case should be settled for reserves or thereabouts." Signed, "John M. Taylor, vice-president." The original is not in my possession. In accordance therewith, I visited Mrs. Spratley and her brother, S. J. York, at her request and communicated the offer of the company. They thought the offer too small and declined it. I then said: "I have no authority to make any other proposition, but if you will name a figure on which you will settle I will write to the company and get instructions, and they can accept or decline, as they choose." Mrs. Spratley and her brother finally refused to make an offer.

O. N. CHAFFEE.

Certificate.

The foregoing deposition was taken before me, as stated in the caption, and reduced to writing by me, and I certify that I am not interested in the cause, nor kin or counsel to either of the
42 parties, and that I sealed it up and put it in the post-office, without being out of my possession or altered after it was

taken, addressed to R. H. Beard, clerk and master of chancery, Memphis, Tenn.; and I hereby certify that my commission as notary public is dated February 1, 1896, and will expire February 1, 1898.

CHAS. E. THOMPSON,
Notary Public, Hartford, Conn.

Copy.

EXHIBIT "A."

HARTFORD, *June* 7, 1887.

O. N. Chaffee, Esq., Grafton, Illinois.

DEAR SIR: Referring to President Green's recent interview with you we have to make the following proposition: This company to employ you for special service in any matters which may be referred to you, with instructions during the pleasure of the directors of the company and under the direction of the executive officers; to have your entire time and services, except upon leave of absence; to pay the necessary traveling and hotel expenses incurred in the line of your duty, and to pay you for your time and services at the rate of twenty-five hundred dollars ($2,500) per annum; this agreement terminable on the part of the company at the pleasure of the directors and on your part by thirty days' written notice.

Please signify your acceptance of this proposition if it meets your views. If accepted this will take effect July 1 next.

Respectfully yours, W. A. ABBOTT, *Secretary.*

Copy.

EXHIBIT "B."

43 HARTFORD, *March* 20, 1896.

Mr. O. N. Chaffee, 85 Edmond place, Detroit Mich.

DEAR SIR: Following our dispatch of yesterday, inclosed please find the papers in the following cases for investigation and report: #48491; Erasmus D. Peck, Toledo, Ohio; $4,500. Peck died of cirrhosis of the liver, and the physician says in his certificate that "he used stimulants daily," and probably with the "usual influence," and our medical director thinks it necessary that the company be advised as to the intemperance and its results.

#189,257 and #202,462; Benjamin R. Spratley, Memphis, Tennessee; $5,000 and $3,000. Spratley died of morphine poisoning in Memphis, February 28th, 1896, and the doctor says that "he got on a spree occasionally and died from an overdose of morphine;" and the facts invite your careful investigation.

Respectfully yours, JOHN M. TAYLOR, *Vice-Pres.*

Deposition of S. J. York.

Filed March 22nd, 1897.

Chancery Court of Shelby County, Tenn.

CONNECTICUT MUTUAL LIFE INSURANCE COMPANY
vs.
LINDA Y. SPRATLEY.

The deposition of S. J. York, taken on behalf of the defendant, all exceptions save for irrelevancy and incompetency waived.

Int. 1. Where do you live, Mr. York?

A. I live in Memphis, Tenn.

2 Q. How long have you lived in Memphis, Tenn.?

A. About 20 years.

44 3. What business are you engaged in?

A. At present I am agent in Memphis, Tenn., for the Blue & Canada line.

4. What relation are you to the defendant, Mrs. Linda Y. Spratley?

A. I am her brother.

5. Who was the husband of defendant, Mrs. Linda Y. Spratley?

A. Benjamin R. Spratley.

6. When did he die?

A. On Feb. 28th, 1896.

7. I show you two policies issued by the complainant, The Connecticut Mutual Life Insurance Company, upon the life of Benj. R. Spratley, both payable to the defendant, Mrs. Linda Y. Spratley, one date- 12th of Dec., 1889, for the sum of $5,000.00, being No. 189,257, and the other dated Feb. 25th, 1893, for the sum of three thousand dollars, being No. 202,462. Please state if you remember when these policies were issued to Benj. R. Spratley, when the applications were taken, and under what circumstances issued.

A. I do remember when these policies were taken out. Mr. Jas. S. Carpenter, the agent for the complainant company, with headquarters in Louisville, Ky., came to Memphis and solicited Mr. Spratley to take the policies, and the application for these policies was taken by Mr. Carpenter from Mr. Spratley in Memphis, Tenn.

8. Do you know Mr. Jas. S. Carpenter; and, if so, how long have you known him?

A. Yes; I know him and have known him for many years. He solicited insurance from me at the same time. The last policy was issued to Mr. Spratley and — took my application here in Memphis for a policy which was afterwards granted.

9. Do you know Mr. O. N. Chaffee? If so, state all you know about him; what, if anything, you know about his connection with the complainant, The Connecticut Mutual Life Ins. Co., and whether he ever came to Memphis on behalf of said company in connection

with the two policies mentioned above issued by it on the
45 life of Benj. R. Spratley.

A. After Mr. Spratley's death and in April, 1896, the said Chaffee came to Memphis, Tenn. I had been absent during that month from Memphis on a trip and returned somewhere about the 13th of April, 1896. When I got back Mr. Chaffee called to see me and told me he represented the complainant, and that his business in Memphis was to settle or arrange the claim of Mrs. Spratley on the two policies mentioned above on her husband's life. He had been in Memphis several days and had seen Mrs. Spratley in the meantime and awaited my return. I had several interviews with him during which he offered to settle the matter by paying my sister the reserve value of the policies. He left with me either the original or copy of dispatch which he had received from Mr. John M. Taylor, vice-president of the complainant, stating that he (Taylor) thought the matter could be settled for the reserve value. I make this dispatch Exhibit "A" to my deposition. I can fix the date of his visit by this dispatch.

EXHIBIT "A."

Dispatch.

APRIL 13TH, 1896.

To O. N. Chaffee, Gayoso hotel, Mfs.:

We think case should be settled for reserved or thereabouts.

JOHN M. TAYLOR,
Vice-President.

10. You remember when your sister, Mrs. Spratley, brought the suit in the circuit court on these two policies?

A. I do. I went with her to see her attorneys when she gave instructions about bringing it.

11. Were you present when the writ was served on Mr. Chaffee in this suit?

A. I was present. It was served on him in my office, where he had called to see me about the settlement of said policies.

The complainant, by its solicitor, excepts to the competency of the following portion of the foregoing direct examination of witness J. S. York, viz:

46 1st. To answer to 7th direct interrogatory because the same is irrelevant to the issue involved in this suit.

2nd. To the answer to the 9th interrogatory because it is incompetent to prove Chaffee's agency by Chaffee's own declaration in April, 1896, or at any other time, and also incompetent to prove his statements or declarations to bind the complainant as it is attempted to do.

3rd. To the supposed and unproved telegram exhibited with the direct examination, because the same is not legally established as a telegram sent to the complainant.

For the present, cross-examination is waived, but the right to

cross-examine at any time before the hearing is reserved, as well as the right to rely upon the objections to competency, &c.

B. M. ESTES,
Sol. for Complainant.

March 6th, 1897.

S. J. YORK.

Subscribed and sworn to before me this March 6th, 1897.

W. M. FARRINGTON, JR.,
Notary Public.

Circuit Court Proceedings.

Summons issued 15th day of April, 1896.

Cost Bond.

LINDA Y. SPRATLEY
vs.
CONNECTICUT MUTUAL LIFE INSURANCE COMPANY OF HARTFORD, CONN. } No. —.

I bind myself to the defendant in the sum of two hundred and fifty dollars for the successful prosecution of this action; to be void on condition that I pay all the costs which may at any time be adjudged against the plaintiff, Linda Y. Spratley, in the event that she shall not pay the same; otherwise to remain in full force.

47 Witness my hand this 15th day of April, 1896.

S. J. YORK. [SEAL.]

State of Tennessee to the sheriff of Shelby county, Greeting:

You are hereby commanded to summon the Connecticut Mutua Life Insurance Company of Hartford, Connecticut, if to be found within your county, personally to be and appear before the judge of the circuit court of Shelby county, at a term of said court to be held for said county at the court-house, in the city of Memphis, on the 3rd Monday in May next, then and there to answer Linda Y. Spratley in an action to her damage twelve thousand dollars.

Herein fail not, and have you then and there this writ.

Witness John A. Strehl, clerk of said court, at office, the third day of March, 1896.

JOHN A. STREHL, *Clerk.*
A. J. WILLIFORD,
Deputy Clerk.

Came to hand April 15th, 1896, and executed same day on the Connecticut Mutual Life Insurance Company of Hartford, Connecticut, by reading the contents of this writ to O. N. Chaffee, special agent, he being the highest officer or agent of said Co. to be found in county, whom, I am informed, was in my county on business connected with the subject-matter of this suit.

This May 4th, 1896.

A. J. McCARVER,
Sheriff of Shelby County, Tenn.,
By HUGH B. WHITE, *Dep. Sher'f.*

Certificate of Mailing Copy — Writ to Defendant Co.

Filed May 4th, 1896.

Registered letter No. 2378—P. O., Memphis, Tenn.—received —— 4th, 1896, of John A. Strehl; addressed to Connecticut
48 Mutual Life Ins. Co., Hartford, Conn.

Post-office at Memphis, Tenn.

Name of sender, John A. Strehl; reg. No. 2378; registered May 4th, 1896, Memphis, Tenn.; addressed to Connecticut Mutual Life Ins. Co., Hartford, Conn.

Received the above-described registered letter, (signed) Conn. Mutual Life.

WM. P. GREEN.

MEMPHIS, TENN., *May 4th*, 1896.

LINDA Y. SPRATLEY
vs. } 6526, A. D.
CONN. MUTUAL LIFE INS. CO. OF HARTFORD, CONN.

I hereby certify that I this day mailed to defendant Co., at Hartford, Conn., a true copy of the summons issued in this case April 15, 1896, and sent the same by registered letter.

(Signed) JNO. A. STREHL, *Clerk*,
By L. E. BOSWELL, *D. C.*

Affidavit Showing that Plaintiff, by Attorney, has Lodged at Home Office of Defendant Notice of Suit and Copy of Process.

Filed May 12, 1896.

I, Sylvester C. Dunham, attorney-at-law, of the city and county of Hartford and State of Connecticut, do hereby on oath testify and say that on the eighth day of May, A. D. 1896, at the request of Messrs. Turley & Wright, of Memphis, Tenn., attorneys for Mrs. Linda Y. Spratley, I placed in the hands of John M. Taylor,
49 the vice-president of the Conn. Mutual Life Ins. Co., a certain notice addressed to the president and directors of the said company, together with a copy of a process issued out of the circuit court of Shelby county, of the State of Tennessee, in which process Linda Y. Spratley is plaintiff and The Connecticut Mutual Life Ins. Co. is defendant, by which instruments an action was commenced by said Linda Y. Spratley against the Connecticut Mutual Life Ins. Co., copies of all which papers, so served by me upon said company by leaving the same in the hands of its vice-president, I attach hereto and return with this my affidavit of such service.

Witness my hand at Hartford, Conn., this the eighth day of May, 1896.

SYLVESTER C. DUNHAM.

STATE OF CONNECTICUT, }
County of Hartford. }

Personally appeared Sylvester C. Dunham, to me well known, who executed the foregoing affidavit in my presence and made solemn oath that the same is true before me, this the eighth day of May, 1896.

WALTER W. PRATT,
Notary Pub.

Copy.

To the president and directors of the Conn. Mutual Life Ins. Co. of Hartford, Conn., Hartford, Conn.:

You will please take notice that on the 15th day of April, 1896, I instituted suit against your company in the circuit court of Shelby county, Tennessee, for $12,000.00 damages. Said suit is brought to recover two policies issued by your company for my benefit on the life of my husband, Benjamin R. Spratley. The style of said suit is Linda Y. Spratley *vs.* The Conn. Mutual Life Ins. Co. of Hartford, Conn., No. 6526, A. D., of the circuit court of Shelby Co., Tenn.

Herewith I hand you copy of the process issued in said
50 suit and the return of the officer thereon.

LINDA Y. SPRATLEY,
Per TURLEY & WRIGHT, *Att'ys.*

May —, 1896.

Cost Bond.

LINDA Y. SPRATLEY }
vs.
CONNECTICUT MUTUAL LIFE INS. CO. OF HARTFORD, CONN. }

I bind myself to the defendant in the sum of two hundred and fifty dollars for the successful prosecution of this action, to be void on condition that I pay all the costs which may at any time be adjudged against the plaintiff, Linda Y. Spratley, in the event that she shall not pay the same; otherwise to remain in full force.

Witness my hand this 15th day of April, 1896.

S. J. YORK. [SEAL.]

State of Tennessee to the sheriff of Shelby county, Greeting:

You are hereby commanded to summons the Connecticut Mutual Life Insurance Company of Hartford, Connecticut, if to be found within your county, personally to be and appear before the judge of the circuit court of Shelby county, at the court-house, in the city of Memphis, on the third Monday in May next, then and there to answer Linda Y. Spratley in an action to her damage twelve thousand dollars.

Herein fail not and have you then and there this writ.

Witness John A. Strehl, clerk of said court, at office, the third Monday in March, 1896.

JOHN A. STREHL, *Clerk,*
By A. J. WILLIFORD, *Dep. Clerk.*

Came to hand April 15th, 1896, and executed same day
51 on the Connecticut Mutual Life Insurance Co. of Hartford, Conn., by reading the contents of this writ to O. N. Chaffee, special agent, he being the highest officer or agent of said company to be found in my county, whom I am informed was in my county on business connected with the subject-matter of this suit.

This May 4th, 1896.

J. A. McCARVER,
Sheriff of Shelby County, Tenn.,
By HUGH B. WHITE, *Dep. Sh'ff.*

I, John A. Strehl, clerk of the circuit court of Shelby county, do hereby certify that this is a true copy of the writ issued April 13, 1896, and of the sheriff's return thereon, this May 4, 1896.

JOHN A. STREHL, *Clerk*,
By L. E. BOSWELL, *D. C.*

Declaration.

Filed May 20th, 1896.

Circuit Court of Shelby County, Tenn.

MRS. LINDA Y. SPRATLEY
vs.
CONN. MUTUAL LIFE INS. CO. OF HARTFORD, CONN.

Plaintiff sues the defendant upon two life-insurance contracts or policies here to the court shown. Said defendant is a corporation organized under the laws of the State of Connecticut, and is doing business in Shelby county, Tenn., but has no regular office or agency therein, and said two life-insurance contracts or policies were made, issued, and delivered by it in said county of Shelby and State of Tenn. to Benjamin R. Spratley, the husband of plaintiff, who at the time was a citizen and resident of said county and State, where he continued to reside until his death.

52 The first one of said contracts or policies was made and issued by the said defendant on the 12th day of Dec., 1889. By said contract or policy the said defendant did insure the life of Benjamin R. Spratley, the husband of plaintiff, for the term of his natural life, in the sum of five thousand dollars, to be paid to the plaintiff, the wife of said insured, for her sole use and benefit, or, in case of her death before payment, to his children, or their descendants, if any survive (or to their guardians, if under age), or, if none, to his legal representatives, thirty days after due notice and satisfactory evidence of the death of the said insured should have been received at the office of the defendant in Hartford, Conn. Said policy or contract of insurance was made and issued in consideration of the annual premium of $160.15, paid to the defendant on the first day of January, 1890, and to be paid at, on, or before the same date of each and every year during the continuance of said policy.

The second one of said contracts or policies of insurance was made

and issued by the defendant on the 25th day of Feb., 1893. By said contract or policy of insurance said defendant did insure the life of the said Benjamin R. Spratley, for the term of his natural life, in the sum of three thousand dollars, to be paid the plaintiff, the wife of the insured, for her sole use and benefit, and in case of her decease before payment, to his children or their de cendants, if any survive, (or to their guardians, if under age), and, if none, to his executors, administrators, or assigns, within thirty days after due notice and satisfactory evidence of the death of the insured shall have been received at the office of the defendant in Hartford, Conn. Said policy or contract of insurance as made and executed by said defendant, in consideration of the annual premium of $116.91, paid it on the first day of September, 1893, and to be paid to it on or before the same date in each year until twenty-five annual premiums shall have been paid. Plaintiff avers and shows that her husband, the said Benjamin R. Spratley, died in the city of Memphis,
53 county of Shelby and State of Tennessee, on the 28th of February, 1896, leaving her surviving him, and she avers and shows further that due notice and satisfactory proof of said death was furnished to the defendant at its office in Hartford, Conn., on or before the 14th day of March, 1896, and more than 30 days before the institution of this suit.

And she further avers and shows that all the premiums on both of the said above policies which matured and fell due before the death of the said Benjamin R. Spratley were promptly paid, and that thereby said policies were in full force and effect at the time of his death.

And she further avers and shows that upon these facts thus set forth the said defendant was indebted to her and was bound to pay to her on or before the 14th day of April, 1896, the said sum of eight thousand dollars mentioned in said policies, with interest thereon from said date.

And she further avers and shows that she demanded payment of said sum from said defendant, but it declined and refused to pay the same, and that said sum, with interest thereon, remains unpaid and due to her under and by the terms of said policies mentioned above.

Wherefore said plaintiff says that she is injured and hath sustained damages to the amount of eight thousand dollars and interest, as set forth above. Wherefore she brings this her suit and prays that the same may be tried before a jury.

TURLEY & WRIGHT,
Att'ys for Pl'ff.

Order Allowing Decree to be Rendered.

Entered June 30th, 1896.

Mrs. LINDA Y. SPRATLEY
vs.
CONNECTICUT MUTUAL LIFE INSURANCE COMPANY OF HARTFORD, CONNECTICUT.

54 On motion of the plaintiff, it is ordered that she be allowed to amend her declaration filed herein by inserting therein the following averments, to wit: "Said defendant is a corporation organized under the laws of the State of Connecticut, but is doing business in Shelby county, Tennessee, but has no regular office or agency therein, and said two life-insurance contracts or policies were made, issued, and delivered by it in said county of Shelby and State of Tennessee to Benj. R. Spratley, the husband of plaintiff, who at the time was a citizen and resident in the said county and State, where he continued to reside until his death." This amendment may be made upon the face of the declaration. It will be made in red ink, so as to show that it was made under the provisions of this order.

Judgment.

Entered July 2, 1896.

Mrs. LINDA Y. SPRATLEY
vs.
CONN. MUTUAL LIFE INS. CO., HARTFORD, CONNECTICUT.

Came the plaintiff and moved the court for a judgment by default against the defendant for want of appearance or defence herein.

And it appearing to the court that the defendant is a corporation organized under the laws of the State of Connecticut, but is doing business in Shelby county, Tenn., but has no regular office or agency therein; that it issued and delivered in the county of Shelby and State of Tennessee to Benjamin R. Spratley, the husband of the plaintiff, the two life-insurance contracts or policies mentioned in the declaration; that the return of the sheriff upon the writ in this case shows that it was served on the 15th day of April, 1896, on the defendant by reading the contents of the said writ to O. N. Chaffee, special agent of the defendant, he being the highest officer or
55 agent of said company to be found in said county at the time, and being in said county on business connected with said life-insurance contracts or policies.

And it further appearing that this return was made on the 4th day of May, 1896, and that immediately the clerk of this court mailed a copy of said writ and process to the defendant at its home office in Hartford, Conn., by registered letter;

And it further appearing that the clerk has filed with the paper

herein a certificate of the fact of such mailing and has made a minute upon the docket of this court;

And it further appearing that said certificate was filed herein on the fourth day of May, 1896, and the said minute thereof was made on the docket on the same day;

And it further appearing that the plaintiff, from the affidavit of Sylvester C. Dunham on file herein on behalf of the plaintiff, did, on the 8th day of May, 1896, lodge with Jno. M. Taylor, the vice-president of the defendant, at its home office in Hartford, Conn., a notice of the bringing of this suit, which notice was accompanied by a copy of the writ or process herein and the return of the sheriff thereon;

And it further appearing that by the writ herein, which was served as aforesaid, the defendant was summoned to appear before this court on the 3rd Monday of May, 1896, that being the first day of the present term, and then and there to answer this action;

And it further appearing that the said defendant has wholly failed to make any appearance herein, and, further, that the said defendant was solemnly called to come into open court and defend said suit, but failed to do so—

It is therefore ordered that default be, and the same is now entered herein against the defendant, and that all allegations of the declaration be, and the same are, now taken as confessed.

And it is further ordered, adjudged, and decreed that the plaintiff have and recover from the defendant the sum of $8,000.00,
56 that being the total amount, principal and interest, due on the life-insurance contracts or policies described in the declaration, and also the costs; for which let execution issue.

Final Decree and Appeal.

Entered March 29, 1897.

In the Chancery Court of Shelby County, Tennessee, Part 1.

THE CONNECTICUT MUTUAL LIFE INSURANCE COMPANY	No. 10365. R. D.
vs.	No. ——. R. D.
LINDA Y. SPRATLEY.	

Final Decree.

Be it remembered that this cause came on to be heard at a former day of the present term, and was finally heard before the Hon. Jno. L. T. Sneed, chancellor, upon the pleadings, exhibits, and proof on file; and the court being of opinion that the complainant is entitled to the relief sought in this bill, and that the preliminary injunction granted in this cause ought to be made perpetual; it is therefore adjudged, ordered, and decreed that the said preliminary injunction be made perpetual, and that the defendant be perpetually enjoined from seeking or attempting to in any manner to assert or enforce the judgment of the circuit court of Shelby county, mentioned and

described in the pleadings and exhibits, against the complainant or its debtors or property in any manner whatever, and that the defendant pay the costs of this suit, for which let execution issue as at law.

From this decree the defendant prays an appeal to the next term of the supreme court of Tennessee to be held for the western district, at Jackson, on the first Monday in April, 1897; which appeal is granted on condition that the defendant gives, according to law, an appeal bond in the penalty of two hundred and fifty dollars
57 ($250.00), conditioned as prescribed by law.

Appeal Bond.

Filed March 29th, 1897.

We, Linda Y. Spratley, appellant, and surety, T. B. Turley, acknowledge ourselves indebted to the Connecticut Mutual Life Insurance Company in the sum of two hundred and fifty dollars, to be void if the said Linda Y. Spratley, above named as appellant, who has prayed for and obtained an appeal from the decree of the chancery court in a cause in which The Connecticut Mutual Life Insurance Co. — complainant and Linda Y. Spratley — defendant, to the next term of the supreme court of Tennessee, for the district of west Tennessee, to be held at Jackson, Madison county, on the first Monday in April next, shall pay all such costs as shall be awarded against her by said supreme court.

This 29th day of March, 1897.

LINDA Y. SPRATLEY, [SEAL.]
By TURLEY & WRIGHT.
T. B. TURLEY. [SEAL.]

STATE OF TENNESSEE, }
Shelby County, } *ss:*

I, R. H. Beard, clerk and master of the chancery court of Shelby county, do hereby certify that the foregoing — pages contain a full, true, and perfect transcript of all the proceedings had in a certain cause lately pending herein, wherein Connecticut Mutual Life Ins. Co. — complainant and L. Y. Spratley — defendant, as the same appears of record and on file in my office.

In witness whereof I hereunto set my hand and affix the seal of said court, at office, in Memphis, this 31st day of March, A. D. 1897.

58 R. H. BEARD, *Clerk & Master,*
By EDGAR T. McHENRY, *D. C. & M.*

59 CONNECTICUT MUTUAL LIFE INS. COMPANY }
vs. } Opinion.
LINDA *J.* SPRATLEY. }

The complainant is a corporation organized under the laws of the State of Connecticut to carry on a life-insurance business and have its princip*le* situs in Hartford, in that State. For many years prior

to the year 1894 it actively prosecuted its work in the State of Tennessee, soliciting applications for life insurance and issuing polic-es upon such applications as were approved by its officers. In the year 1889 and afterwards in 1893 an agent of this company was in the State of Tennessee, and by his solicitations induced one B. R. Spratley, a citizen of that State, to apply for insurance on his own life, and upon the applications the complainant issued two polic-es, one of which was for $5,000.00 and the other for $3,000.00, payable at his death to his wife, the defendant, Linda J. Spratley. Both of these polic-es were delivered in this State.

In the year 1896 B. R. Spratley died, and proof of his death was forwarded to the company, and very soon thereafter complainant sent O. N. Chaffe, one of its employees, into the State to investigate the claim and the conditions under which the death occurred. He came and had interviews with the beneficiary, Mrs. Spratley, her brother, and other parties, of all of which he made report to his home company. Upon receiving this report the complainant, through its vice-president, wired the agent as follows: "We think case (referring to Spratley's death claim) should be settled for reserves or thereabouts." After receiving this telegram Chaffer visited Mrs. Spratley and submitted an offer to settle on the terms indicated in it. This offer having been rejected, while in this State on the business and occasion referred to, suit was instituted by the beneficiary against the insurance company for the amount alleged to be due on these polic-es, in the circuit court of Shelby county, and process was served on Chaffer, as the agent of the company. At the same time all the requirements of ch. 226 of the Session Acts of 1887 with regard to the giving other and further notice of the bringing and pendency of this suit were complied with.

The insurance company ignoring this action, in due time judgment by default was taken against it, upon which an execution was subsequently issued. Thereupon the bill in this cause attacking the judgment upon the ground that it was taken without valid service of process; that it had not at the time of the institution of the suit in question, nor had for several years prior thereto, any office or agency in Tennessee; that Chaffer, upon whom service was attempted, was a special agent, for a special purpose, in Memphis and in such special business, and that he was not an agent annually for process to issue against the complainant company, and that ch. 226 of the Acts of the Legislature of 1887, upon which the circuit court procedure rested, was void, because it violated article 5 of the amendment to the Constitution of the United States, and also the 14th amendment to the Constitution of the United States, in that under the provisions of this act a defendant was "deprived of life, liberty, or property without due process of law;" and it also violated so much of section 17 of the article of the constitution of the State of Tennessee as provides that "every man shall have remedy by due course of law." The first ground of attack will be hereafter noticed. We will at once examine the question raised upon the constitutionality of this act.

Sections # 2831, '32, '33, and '34 of the code (M. & V.), corresponding with sections # 4539, '40, '41, and '42 of Shannon's, regulate the mode of suing corporations and apply equally to foreign and domestic corporations. Chi. & A. C. R. R. *vs.* Walker, 9 Lea,
61 475; Peters *v.* Neely, 16 Lea, 280. But they did not cover the case of a foreign corporation having no resident agent in the State. Chi. & A. C. R. R. *v.* Walker, *supra*. This defect in the law discovered by this last-named case led to the passage of the act which is assailed for unconstitutionality by the complainant. The provisions of this act are embodied in sections # 4543, '44, '45, & '46 of Shannon's new code. By the first section it is provided that "any corporation claiming existence under the law of any other State found doing business in this State shall be subject to suit here to the same extent that corporations of this State are by the laws thereof liable to the same, so far as relates to any transaction bid in whole or in part within this State or any cause of action arising here, but not otherwise." Section 2 defines what is meant by the term "found doing business in this State," and in the word- "any corporation having any transaction with persons or having any transaction concerning any property situated in this State, through any agency whatever acting for it within this State, shall be held to be doing business within the meaning of section one." Section three provides that "process may be served upon any agent of said corporation found within the county where the suit is brought, no matter what character of agent such person may be, and in the absence of such an agent it shall be sufficient to serve the process upon any person, if found within the county where the suit is brought, who represented the corporation at the time the transaction out of which the suit arising took place," & etc.

In Telephone Company *v.* Turner, 4 Pickle, 265, it is held that "this act did not apply to any foreign corporation having resident agents in the county where the suit is brought," but that the case presented in this record was one within its provisions we think is clear. The question is, is it constitutional?

It may be said that in the legislature Tennessee is only
62 following in the footsteps of many other States of the Union. So diversified and widespread have been the operations of corporations that possibly every State has found for the protection of its own citizens it was necessary to adopt similar laws. In Lafayette Insurance Company *v.* French, 18 Havard, 404, with regard to a judgment obtained in a court of Ohio, — should endeavor to secure to its citizens a remedy in their domestic forum upon this important class of contracts made and to be performed within that State and fully subject to its laws, nor that proper means shall be used to compel foreign corporations transacting their business of insurance within the State for the- benefit and profit to answer them for the breach of their contracts of insurance there made and to be performed.

For a long period it has been settled that a corporation created in one State has no right under the Constitution of the United States to transact business in another State save by the consent, ex-

press or implied, of that State, and this consent may be given in such terms as the State may see proper to impose, and the terms so imposed are binding on the corporation. Paul *v.* Virginia, 8 Wall., 168. The only limitation upon the right is that the conditions imposed must not be repugnant to the Constitution or laws of the United States, that principle of natural justice which forbids condemnation without opportunity for defense—Lafayette Ins. Company *v.* French, *supra*—to wit: If a State permits a foreign corporation to do business within her limits, and at the same time provides that in suits against it for business there done process shall be served upon its agent, the provision is to be deemed a condition of the permission, and corporations that subsequently do business in the State are to be deemed to assent to such condition as fully as though they had specially authorized their agent to waive service of process. St. Clair *v.* Cox, 106 U. S., 350. Continuing in that case, the court said:

63 "Such execution must not encroach upon that principle of natural justice which requires notice of a suit to a party before he can be bound by it. It must be reasonable and the service provided should be only upon such agents as may be properly deemed representatives of the foreign corporation." As illustrating the length to which the courts have gone in subjecting foreign corporations to actions or demands which are in the State of the forum by service of process on some representative within its territorial limits, the case of Coleman Iron Works *v.* Mining Company, 15 Cold., 433; Sheckle *v.* Construction Company, 61 Mch., 226, and Earl *v.* Terre Haute Car Mfg. Company may be referred to. These cases carry the doctrine of representation far beyond which it requires of us in maintaining the judgment complained of and the case presented in this record.

In Earle *v.* Terre Haute Car Mfg. Company, *supra*, the foreign corporation in a suit by a citizen of New York, on a demand growing out of a transaction in that State, was brought into court by service on its president, who was passing through to a seaside resort and was in no sense there in his official capacity or upon any business connected with his corporation, and yet it was held that this service would sustain a judgment against it. While not feeling it necessary to agree to the decision reached, yet the following paragraph taken from the opinion in that case does meet with our approval: "The object of all service of process for the commencement of a suit or any other legal proceedings is to give notice to the party proceeded against, and any service which virtually accomplishes that end answers the requirements of natural justice and fundamental law (Gibbs *v.* Queen Ins. Company, 63 N. Y., 114), and what service shall be deemed sufficient for that purpose is to be determined by the legislative power of the country in

64 which the proceeding * * * is instituted, subject only to the limitations that the service must be such as may be reasonably *be* expected to give the notice aimed at." So in that case the supreme court of New York held that while the president of this corporation was not within the State on the business of the

corporation, yet, as it was his duty to convey notice of the commencement of the suit to his company, that he would do so could reasonable be presumed and expected.

Mr. Murphee, in his recent work on Corporations, in section 215, after speaking of the great variety among the statutory provisions for bringing foreign corporations into the home forum, says: "The purpose of such provisions is to insure the giving of the notice to the corporation. That idea is given prominence in all the decisions interpreting them. Consequently the general rule is that if the person served sustain sufficient character and rank to render it reasonably certain that the corporation would be apprised of the service the requirement of the statute is answered," and it may be added that the demand of natural justice will be thereby satisfied. Perhaps no better statement of the doctrine of substituted service can be found than that of Lord Chancellor Crawford in Hope *v.* Hope, 4 De Gex, McN. & G., p. 328, which is as follows: "In cases where a defendant is abroad the question is whether there is any person here who may be fitly served and service upon whom may be treated as equivalent to service upon the absent person himself. Now, this has been allowed in a variety of cases; for instance, where there has been an agent in this country managing all the affairs of the defendant, who is abroad, and regularly communicating with him upon his affairs, or where he has an agent here specially managing the particular matter involved in the suit. In such cases the
65 court has felt that it might safely allow service upon the agent to be deemed good service upon the person abroad, because the *re*ference is irresist*a*ble that service so made upon the agent is service either on a person impliedly authorized to accept that particular service or who certainly will communicate the process so served to the party who is not in this country to receive it himself. The object of all service is, of course, only to give notice to the party on whom it is made, so that he may be made aware of and may be able to resist that which is sought against him, and when that has been substantially done, so that the court may feel perfectly confident that service has reached him, everything has been done that is required."

It will not be assumed by this court that in the act of 1887 the legislature intended to disregard the principle of natural justice and provide for the service of process upon an agent of a foreign corporation found within the territorial limits of the State without regard to whether he was here in a representative capacity on the business of his principal, but rather the contrary, and certainly this corporation cannot be heard to complain, whatever others might do, because the agent upon whom service was made in this case was at the time in this State as the representative of the complainant, examining for it into *into* the conditions under which Spratley's death occurred, and, finally, upon the authority of his employer, submitting a proposition of compromise of the claim now in controversy. Not only had complainant transactions in this State with regard to the policies before and at the time of this delivery, but, through its agent, was found doing business in respect to them at the time of

the institution of this suit, and it cannot be otherwise than that this agent would be reasonably certain to inform his principal of
66 the fact that it had been brought. Now, in a case where this reasonable presumption may be made, do we feel constrained to overturn a beneficent statute upon the suggestion of a mere possibility that it might in *superstitious* cases be perverted to unjustifiable ends? On this point we are satisfied that the complainant was not put to judgment without due process of law, and that the statute in question is not open to the attack made on it. It is proper to add that we have carefully examined Maxmiller *v.* R. R., 34 Fdl. Rep., 286; U. S. *v.* Telephone Company, 27 Fdl. Rep., 17; R. R. *v.* Pinkney, 149 U. S., 194; *Re* Horhust, 150,653, relied on by complainant's counsel, and we find nothing in them in conflict with this conclusion.

But it is argued that the act of 1887 did not apply to this corporation, because it had filed under the requirements of ch. 66 of the Acts of 1875, sect. 12, an irrevocable power of attorney authorizing the sect. of state to accept service. To this it may be said:

First. That this agreement is in the face of complainant's bill, in which it alleges that it was a non-resident of this State and had no office or agent in Tennessee or had not had for some years preceding the institution of the suit on the policies, thus, by implication at least, negativing its present proposition.

Second. But, as a matter of law, is the contention sound? The legislature on the subject is as follows: Ch. 23 of the Acts of 1873, sect. 2, requiring foreign insurance companies to file with the treasurer of the State a written instrument authorizing any agent of such company in the State to acknowledge service of process; and 66 of the Acts of 1875, section 12, required foreign life insurance companies to file with the insurance commissioner a power of attorney authorizing the secretary of state to accept service. Chapter
67 23 of the Acts of 1873 was repealed by chapter 47 of the Acts of 1891, and chapter 66 of the Acts of 1875, as well as chapter 47 of the Acts of 1891, were repealed by chapter 160, section 49, of the Acts of 1895. All these repeals were express.

The suit brought by Mrs. Lynda Y. Spratley in the circuit court was instituted on the 15th day of April, 1896. Chapter 160 of the Acts of 1895, repealing ch. 66 of the Acts of 1875, in section 9, contains a provision requiring every foreign insurance company, fire or life, as a prerequisite to admission into the State for the transaction of business, to constitute the insurance commission its attorney to accept service. It is not claimed that the complainant company had acted in accordance with this provision. From July 1st, 1894, down to the time the suit in the circuit court was brought, complainant company was doing a limited business in Tennessee. It had a large number of policies in the State from which it collected its premiums at stated periods, and when a death occurred it sent its agent into the State to make the necessary investigation and report upon the circumstances under which the insured party died, as was done in this particular case.

Ordinarily the rule is that where civil proceedings or jurisdiction

in civil cases depend upon a statute they fall within the repeal of that statute. Enolick in J'n of Statute, S. 4, 79. Many illustrations of this rule will be found in the coses: North Carl *v.* Bond, 10 Wall. (Pa.), 351; State *v.* Brookam, 22 W. Va., 214; Stephenson *v.* Aloc, 8 Blockf. (Ind.), 508; Morgan *v.* Thoren, 7 M. & W., 400; Bartey *v.* Mason, 4 Minn., 546; Butler *v.* Palmin, 1 Hill (N. Y.), 324; Williams *v.* Lincoln County, 35 Mo., 345; Tickey *v.* People, 8 Mich., 128; Lanch *v.* Schatter, 54 Cold., 319; Anding *v.* Levy, 57 Miss., 58. But we may concede that this rule does not apply in this case, and that the power of attorney
68 given by the complainant is irrevocable and stands today as if the act of 1875 still existed, yet it does not follow that the service on Chaffer as agent in the circuit court was effectual to bring complainant into that court. The continued existence of the power of attorney does not preclude the complainant from being amenable to the operation of the act of 1887. The secretary of the State was not the agent of this corporation save in the most restricted sense, and he was located at the capitol of the State, where the discharge of his official duties properly placed him. We may concede that Mrs. Spratley might have called upon him to accept service of her process, but instituting her suit as she did, at her own home, in a remote part of the State, where there was no resident agent of complainant, but finding one there temporarily whose agency embraced the very subject of her controversy, she had a case with- the purview, and she was entitled to avail herself of the act of 1887. As this court said in Telephone Company *v.* Tanner, *supra*, this act was not one of "limitation, but of enlargement," and we are unable to discover why it should not be operative against complainant, while at the same time its power of attorney be irrevocable.

Nor can we accede to the proposition that by complying with the act of 1875, by the execution of its power of attorney to the secretary of the State, that complainant thereby made a contract with the State of Tennessee, which is protected by the contract provision of the Constitution of the United States, and that no subsequent legislation can make this corporation amenable to action in the courts of the State by service of process on any other agent. We are unable to discover any element of a contract which will
69 preclude the State thereafter from adopting legislation which contemplated bringing the corporation into our courts by service on such other agents as reasonably represented it and carrying on its business within our territorial limits. If the argument of complainant's counsel in this point is sound, if the office of the secretary of state should be abolished, this result being the act of the State, for which complainant would in nowise be responsible, then our citizens could obtain no redress for their grievances sustained at the hand of this company in their domestic courts, even if there was an agent with full power of representation residing in each county of the State. A position from which such a conclusion may be deduced we think necessarily unsound.

We deem the act of 1875 in this regard as simply imposing a

condition for the State's permission to a foreign life insurance company to come within its borders and transact business with its citizens, and there was nothing in it or in the acceptance of its terms by the complainant precluding the legislature from thereafter making other provisions by which through service upon other agents, either permanent or temporarily found here, this corporation might be made to answer in our courts for breach of its contracts made here.

The decree of the chancellor is reversed and a decree will be instead against complainant and the surety on its injunction bond for the amount of the judgment of the circuit court and interest upon it and all cost of the two courts.

BEARD, *Judge*.

70 THE STATE OF TENNESSEE:

Pleas before the supreme court of said State for the western division thereof, at the April term, A. D. 1897.

Present: The Hon. D. L. Snodgrass, chief justice, and W. C. Caldwell, J. S. Wilkes, W. K. McAlister, and W. D. Beard, associate judges—when the following proceedings were had, to wit:

JUNE 16TH, 1897.

CONNECTICUT MUTUAL LIFE INSURANCE COMPANY
vs.
LINDA Y. SPRATLEY.

Be it remembered that this cause came on to be heard upon the transcript of the record from the chancery court of Shelby county, Tennessee, and, the same having been argued by counsel and considered by the court, the court is of opinion, and doth adjudge and decree, that the decree of the chancellor heretofore rendered in this cause is erroneous, and the same is hereby reversed, set aside, and for nothing held.

The court is further of opinion, and doth so adjudge and decree, that the injunction sued out by the Connecticut Mutual Life Insurance Company, enjoining the judgment obtained by Linda Y. Spratley against said insurance company in the circuit court of Shelby county, Tennessee, should be and it is dissolved and for nothing held; and it appearing that said Connecticut Mutual Life Insurance Company executed bond for cost in the sum of two hundred and fifty dollars ($250.00), and for injunction in the sum of $16,000, enjoining the judgment recovered in said circuit court, and that the Fidelity & Deposit Company of Maryland became its security on said bonds:

It is now ordered, adjudged, and decreed that said Linda Y. Spratly have and recover of the Connecticut Mutual Life Insurance Company and of said Fidelity & Deposit Company of Mary-
71 land, its surety on said bonds, the sum of ($8,564.41) eighty-five hundred and sixty-four $\frac{41}{100}$ dollars, being the amount of the judgment heretofore rendered in said circuit court, with inter-

est to this date; and that she recover also the costs of this court and of the court below, for all which execution may issue.

The court is of further opinion, and doth so adjudge and decree, that the act of the legislature of Tennessee entitled an act to subject foreign corporations to suit in this State, approved March 20th, 1887, being chapter 226 of Acts of 1887, and found on page 386 *et seq.* thereof, did furnish and afford due process of law and in nowise violated article 5 of the amendments of the Constitution of the United States, which provides, among other things, that no person shall be deprived of life, liberty, or property without due process of law.

The court is of further opinion, and doth so adjudge and decree, that said act of 1887 doth in nowise violate the 14th amendment to the Constitution of the United States, which provides, among other things, that "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

The court is of opinion that said act of 1887 is constitutional, and that the service of process in this cause upon C. N. Chaffee is valid, constitutional, and effective, and that said statute of 1887 and process thereunder are due process of law, and that said statute does not violate article 5 of the amendments of the Constitution, and that the 14th amendment of the Constitution of the United States is in no way violated, nor has section 17, article 1, of the constitution of the State of Tennessee or any other provision of the constitution of the State of Tennessee been violated by said legislation.

The court is further of opinion, and doth so order, adjudge, and decree, that the Session Acts of Tennessee passed and approved 22nd of March, 1875, chapter 66, page 76 *et seq.*, sec. 12,
72 requiring the filing of a power of attorney by said Connecticut Mutual Life Insurance Company and all foreign life insurance company, and appointing the secretary of state of Tennessee as agent to be served with legal process, and the acceptance of said act by said company did not make a contract between the State and said company, and that therefore the said Session Acts of Tennessee, chap. 226, page 386, approved March 29th, 1887, designated other persons to be served with process, in nowise violate section 10, article 1, of the Constitution of the United States, which, among other things, provides that "no State shall pass any law impairing the obligation of contract." The contention of said Connecticut Mutual Life Insurance Company that article 5 of the amendments to the Constitution of the United States, guaranteeing due process of law, and *that* the 14th amendment of the Constitution of the United States aforesaid have been violated, and the contention that the aforesaid act of the legislature of Tennessee of the 22nd of March, 1875, and the act of 29th March, 1887, aforesaid, of the acts of Tennessee, impair or violate or are repugnant to section 10, article 1, of the Constitution of the United States — are therefore null and void, are overruled, and the claim aforesaid of protection under the Constitution of the United States is denied.

73 THE CONNECTICUT MUTUAL LIFE INSURANCE COMPANY *vs.* LINDA Y. SPRATLEY. } No. 53, Shelby Chancery Docket.

Know all men by these presents that the Connecticut Mutual Life Insurance Company and the Fidelity and Deposit Company of Maryland, principals, and G. W. Macrea and Francis Fentress, as security, bind ourselves, jointly and severally, unto Linda Y. Spratley in the sum of twelve thousand dollars, the payment of which, well and truly to be made, we bind ourselves and representatives firmly by these presents.

But the conditions of this obligation is such that whereas the above-bounden Connecticut Mutual Life Insurance Company, a corporation duly chartered and organized and existing by and under the laws of the State of Connecticut, and the Fidelity and Deposit Company, a corporation duly chartered, organized, and existing by the laws of Maryland, have obtained or are about to obtain a writ of error from the Supreme Court of the United States to the supreme court of Tennessee, sitting at Jackson, Tennessee, for the western division of Tennessee, to reverse a judgment rendered by it at its April term, 1897, against said Connecticut Mutual Life Insurance Company and against said Fidelity and Deposit Company of Maryland, as its surety, in the suit of said Connecticut Mutual Life Insurance Company *vs.* Linda Y. Spratley, said cause being from the chancery court of Shelby county, Tennessee, and the judgment being as follows: In favor of the said Linda Y. Spratley and against the Connecticut Mutual Life Insurance Company for the sum of eight thousand five hundred and sixty-four $\frac{4}{100}$ dollars, on the 16th June, 1897:

Now, if the said Connecticut Mutual Life Insurance Company and said Fidelity and Deposit Company of Maryland fail to prosecute said writ of error to effect or, fail- to make good their plea, shall answer all damages and costs and, moreover, abide by and
74 perform the judgments and decrees of the Supreme Court of the United States of America in the premises, then the obligation to be void; otherwise to remain in full force and effect.

In testimony whereof we have hereunto set our hands and seals this the 24th day of July, 1897.

THE CONNECTICUT MUTUAL LIFE INSURANCE COMPANY,
By ESTES & FENTRESS, *Att'ys.*
FIDELITY AND DEPOSIT COMPANY OF MARYLAND,
[SEAL.] By FRANCIS FENTRESS,
Member Local Board Tennessee.
G. W. MACREA, *Surety.* [SEAL.]
FRANCIS FENTRESS, *Surety.* [SEAL.]

Attest:
GEO. H. GLASCOCK, *Ag't.*

MEMPHIS, TENNESSEE, *July* 24, 1897.

As clerk of the circuit court of the United States, held at Memphis, Tennessee, I hereby certify that the sureties on the foregoing bond are amply good for the amount of the penalty thereof.

[SEAL.] JOHN B. CLOUGH, *Clerk, &c.*

The foregoing bond is accepted and approved by me as chief justice supreme court of Tennessee.
This 30 day of July, 1897.

D. L. SNODGRASS,
Chief Justice Supreme Court Tennessee.

Filed August 6, 1897.

JNO. W. BUFORD, *Clerk*,
By J. E. SPRINGBETT, *D. C.*

75 *Writ of Error.*

LINDA Y. SPRATLEY
vs.
CONNECTICUT MUTUAL LIFE INSURANCE COMPANY. } # 53, Shelby Chancery Docket.

The President of the United States to the honorable judges of the supreme court of the State of Tennessee, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said supreme court of the State of Tennessee, sitting at Jackson, Tennessee, for the western division of said State, in said district, before you or some of you, at the April term, A. D. 1897, of said supreme court, being the highest court of law or equity in said State of Tennessee in which a decission could be had in a suit between Linda Y. Spratley, as complainant and plaintiff, — The Connecticut Mutual Life Insurance Company, as defendant, wherein was drawn in question the validity and constitutionality of an act of the legislature of Tennessee entitled "An act to subject foreign corporations to suit in this State," approved March 29th, 1887, being chapter 226 of the Acts of 1887, and found on page 386 thereof, and which the said Connecticut Mutual Life Insurance Company contended did not furnish and afford due process of law in said cause; and also that the same violated article 5 of the amendments to the Constitution of the United States, which provides, among other things, that "no person shall be deprived of life, liberty, or property without due process of law," and the decision of the said supreme court of Tennessee sustained the validity of said act and denied said Connecticut Mutual Life Insurance Company the relief sought under said article 5 of the amendment to the Constitution of the United States so specifically set up or claimed under said clause of the said Constitution of the United States, and which the said Connecticut Mutual Life Insurance Company claimed was violated by said act of the legislature of Tennessee aforesaid.

76 And said Connecticut Mutual Life Insurance Company also further claimed that said act of 1887 of the legislature of Tennessee did violate the 14th amendment of the Constitution of *of* the United States, which provide-, among other things, that "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the law."

But said court held said act valid and constitutional and in no sense violative of said 14th amendment to the Constitution of the United States, and denied to said Connecticut Mutual Life Insurance Company the relief so specifically set up or claimed under said section of the Constitution of the United States.

And because said supreme court of Tennessee in said cause did hold and decree that the service of process in said cause upon O. N. Chaffee was valid, constitutional, and effective, and that said statute and process thereunder are due process of law, and that said statute does not violate article 5 of the amendments to the Constitution, nor the 14th amendment to the Constitution of the United States, and denied to said Connecticut Mutual Life Insurance Company the relief so set up or claimed under said clauses of the Constitution of the United States, and there was drawn in question the legality and validity of the Session Act of Tennessee passed and approved March 22nd, 1875, chap. 66, page 76, authorizing the filing of an irrevocable power of attorney by said Connecticut Mutual Life Insurance Company and all foreign insurance companies, appointing secretary of the State of Tennessee as agent to be served with legal process, to the exclusion of others.

And the Session Acts of Tennessee, chap. 226, page 386, approved March 29th, 1887, designating other persons not legally the representatives of said Connecticut Mutual Life Insurance Company and other foreign insurance companies in like condition to be served with process, which said acts said Connecticut Mutual Life
77 Insurance Company specially set up and claimed did violate sec. 10, art. 1, of the Constitution of the United States, which, among other things, provides "that no State shall pass any law impairing the obligations of contracts," and said supreme court of Tennessee did sustain the validity of said acts last mentioned and declared the same to be in nowise violative of said sec. 10, art. 1, of the Constitution of the United States, and so denied to said Connecticut Mutual Life Insurance Company the relief claimed under said clause of the Constitution of the United States.

And the said supreme court of Tennessee in said cause aforesaid did adjudge and decree that art. 5 of the amendment to the Constitution of the United States guaranteeing due process of law and the 14th amendment to the Constitution of the United States had not been violated by said act of the legislature of Tennessee of March 22nd, 1875, and the act of March 29th, 1887, aforesaid, and that the same were not violative of or repugnant to section 10, art. 1, of the Constitution of the United States, and said court decided said ques-

tions against said Connecticut Mutual Life Insurance Company in said cause and denied to it its rights under said sections of the Constitution of the United States so specifically set up or claimed by said company, and in said decision a manifest error has happened, to the great damage of said Connecticut Mutual Life Insurance Company, as by their complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment herein be given, that, under your seal, distinctively and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, in the District of Columbia, on the second Monday in October, A. D. 1897, next, in the Supreme Court, to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done herein to correct what error which of right and according to the law and the custom of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice
78 of the said Supreme Court of the United States, and the seal of the circuit court of the United States for the western district of Tennessee, western division, at Memphis, Tennessee, this 24th day of July, A. D. 1897, and of our Independence the one hundred and twenty-first.

JOHN B. CLOUGH,

[SEAL.] *Clerk U. S. Circuit Court for Western Division of the Western District of Tennessee.*

79 THE CONNECTICUT MUTUAL LIFE INSURANCE COMPANY *vs.* LINDA Y. SPRATLEY } Assignment of Errors.

Comes the appellants, The Connecticut Mutual Life Insurance Company, and say that — the record and proceedings in the above-entitled cause there is manifest error, and they assign for error the following portion of the decree of the supreme court of Tennessee:

1st. Be it remembered that this cause came on to be heard upon the transcript of the record from the chancery court of Shelby county, Tennessee, and, the same having been argued by counsel and considered by the court—

The court is of opinion and doth adjudge and decree that the decree of the chancellor heretofore rendered in this cause is erroneous, and the same is hereby reversed, set aside, and for nothing held.

2nd. The court is further of opinion and doth so adjudge and decree that the injunction sued out by the Connecticut Mutual Life Insurance Company, enjoining the judgment obtained by Linda Y. Spratley against said insurance company in the circuit court of Shelby county, Tennessee, be dissolved and for nothing held; and it appearing that said Connecticut Mutual Life Insurance Company

executed bond for costs in the sum of $250 and for injunction in the sum of $16,000, enjoining the judgment recovered in said circuit court, and that the Fidelity & Deposit Company of Maryland became its security on said bonds—

It is now ordered, adjudged, and decreed that Linda Y. Spratley have and recover of the Connecticut Mutual Life Insurance Company and of said Fidelity & Deposit Company of Maryland, its surety on said bonds, the sum of $8,564.41, being the amount of the judgment heretofore rendered in said circuit court, with interest to this date, and also the costs of this court and the court below; for all which execution may issue.

80 3rd. The court is of further opinion and doth so adjudge and decree that the act of the legislature of Tenn. entitled Act to subject foreign corporations to suit in this State, approved March 29, 1887, being chap. 226 of Acts of 1887, and found on page 386 thereof, did furnish and afford "due process of law" and in nowise violated art. 5 of the amendments to the Constitution of the U. S., which provides, among other things, that "no person shall be deprived of life, liberty, or property without due process of law."

4th. The court is of further opinion and doth so adjudge and decree that said act of 1887 doth in no sense violate the 14th amendment to the Constitution of the U. S., which provides, among other things, that "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the U. S., nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the law."

5th. The court being of opinion that said act of 1887 is constitutional, and that the service of process in this cause upon O. N. Chaffee is valid, constitutional, and effective, and that said statute and process thereunder are due process of law, and that said statute does not violate article 5 of the amendments of the Constitution, and that the 14th amendment of the Constitution of the U. S. is in no way violated, nor has sec. 17, art. 1, of the constitution of the State of Tennessee or any other provision of the constitution of the State of Tennessee.

6th. The court is further of opinion and doth so order, adjudge, and decree that the Session Act- of Tenn. passed and approved 22 March, 1875, chapter 66, page 76, authorizing the filing of an irrevocable power of attorney by said Connecticut Mutual Life Insurance Company and all foreign insurance companies, appointing the secretary of State of Tennessee as agent, to be served with legal process to the exclusion of others, and the Session Acts of Tenn.,

81 chap. 226, page 386, approved March 29th, 1887, designating other persons, not legally the representatives of the complainant, to be served with process, in nowise violated sec. 10, art. 1, of the Constitution of the U. S., which, among other things, provide that "no State shall pas- any law impairing the obligation of contracts."

7th. The contention of said Connecticut Mutual Life Insurance Company that article 5 of the amendments to the Constitution of the

U. S., guaranteeing due process of law, and that the 14th amend ment of the Constitution of the U. S. aforesaid have been violated and the contention that the aforesaid act of the legislature of Ten nessee of 22 March, 1875, and the act of 29 March, 1887, aforesai of the Acts of Tenn. impair or violate or are repugnant to sec. 1 art. 1, of the Constitution of the U. S., and are therefore null an void, *and* are overruled, and the claim of aforesaid protection unde the Constitution of the U. S. is denied.

THE CONNECTICUT MUTUAL LIFE INSURANCE COMPANY,
By ESTES & FENTRESS, *Solicitors.*

Filed 6th day of Aug., 1897.

JNO. W. BUFORD, *Clk,*
By J. E. SPRINGBETT, *D. C.*

82 *Certificate.*

Supreme Court of Tennessee, April Term, A. D. 1897.

LINDA Y. SPRATLEY
vs.
CONNECTICUT MUTUAL LIFE INSURANCE COMPANY. } # 53, Shelby Chancery Docke

I, David L. Snodgrass, chief justice of the supreme court of Ten nessee, highest court in the State of Tennessee, either at law or i equity, composed of David L. Snodgrass, chief justice; John S Wilkes, William K. McAlister, W. C. Caldwell, and W. D. Beard associate justices, hereby certify that in the above-styled cause latel pending in the supreme court of Tennessee and decided against th plaintiff in error, The Connecticut Mutual Life Insurance Company there was drawn into question the validity of the act of the legisla ture of Tennessee entitled "An act to subject foreign corporations t suit in this State," approved March 29, 1887, being chap. 226 of th Acts of 1887, which the said Connecticut Mutual Life Insurance Company claimed and contended did not furnish and afford du process of law, but did violate art. 5 of the amendment to the Con stitution of the United States, which provides, among other thing that "no person shall be deprived of life, liberty, or property with out due process of law," and the decision of the supreme court o Tennessee, at its April term, 1897, sustained said act as legal an valid and in nowise violative of said art. 5 of the amendments t the Constitution of the United States, and denied to said Connecticu Mutual Life Insurance Company the relief claimed under said art. of the amendments to the Constitution.

And said supreme court of Tennessee, at said term in said caus in which the said act of 1887 was called in question as violating th 14th amendment of the Constitution of the United States, whic provides that "no State shall make or enforce any law whic shall abridge the privileges or immunities of any citizen of th

United States, or deprive any person of life, liberty, or property without due process of law, or deny to any person
83 within its jurisdiction the equal protection of the law" did hold said act valid and constitutional and in no sense violative of said 14th amendment, and denied to said Connecticut Mutual Life Insurance Company its specific claim and contention that the same violated said amendment, but said supreme court decided that said act was valid and denied the relief sought, and that said act of 1887 — constitutional, valid, and effective, and that the service of process thereunder was likewise, upon O. N. Chaffee, constitutional, valid, and effective, and that said statute and process thereunder were due process of law, not violative of or repugnant to art. 5 of the amendment- of the Constitution and of the 14th amendment of the Constitution of the United States, and so denied said Connecticut Mutual Life Insurance Company the relief sought, and decided said cause against them and sustained the validity of said acts, and said cause was decided against the Connecticut Mutual Life Insurance Company, and there was further brought in question and decided against The Connecticut Mutual Life Insurance Company, plaintiff in error, the validity of the Session Act- of Tennessee passed and approved March 22nd, 1875, chap. 66, page 76, authorizing the filing of an irrevocable power of attorney by said Connecticut Mutual Life Insurance and all foreign insurance companies appointing the secretary of state of Tennessee as agent to be served with legal process to the exclusion of others, and the Session Acts of Tennessee, chap. 226, page 386, approved March 29th, 1887, designating other persons not legally the representatives of the Connecticut Mutual Life Insurance Company and other foreign insurance companies in like condition, and the court held that said acts above stated were in nowise repugnant to or violative of sec. 10, art. 1, of the Constitution of the United States, which, among other things, provides that "no State shall pass any law impairing the obligations of contracts," and denied to said Connecticut Mutual Life Insurance Company its claim for relief and protection thereunder, and the court sustained all said several acts above stated of the legislature as constitutional and valid and
84 as in nowise repugnant to or violative of said several sections of the Constitution of the United States aforesaid, and denied to said Connecticut Mutual Life Insurance Company in said cause the relief thereunder claimed, and said decision in all things sustained the constitutionality and validity of said session acts and was in favor of said Linda Y. Spratley and against the Connecticut Mutual Life Insurance Company.

Witness the Honorable David L. Snodgrass, chief justice of the supreme court of Tennessee, this 24th day of July, 1897.

D. L. SNODGRASS,
Chief Justice Supreme Court, Tenn.

Filed August 14th, 1897.

JNO. W. BUFORD, *Clk*,
By J. E. SPRINGBETT, *D. C.*

85 *Citation.*

In the Supreme Court of Tennessee, at Jackson, Tennessee, April Term, 1897.

LINDA Y. SPRATLEY
vs.
CONNECTICUT MUTUAL LIFE INSURANCE COMPANY. } # 53, Shelby Chancery Docket.

To the above complainant, Linda Y. Spratley, Greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, to be holden at Washington, in the District of Columbia, on the 2nd Monday of November, 1897, pursuant to an appeal and writ of error filed in the clerk's office of the supreme court of the State of Tennessee, sitting at Jackson, Tennessee, for the western division of said State, at its April term, 1897, and taken and issued to the said *to the said* supreme court in the above-entitled cause, wherein The Connecticut Mutual Life Insurance Company is appellant in error and you are the defendant in error, to show cause why the judgment in said appeal and writ of error mentioned and rendered in said cause by said supreme court against it should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Hon. David L. Snodgrass, chief justice of the supreme court of Tennessee, this 24 day of July, 1897.

D. L. SNODGRASS,
Chief Justice Supreme Court of Tenn.

Due and legal service of the within is accepted for Linda Y. Spratley Aug. 3rd, 1897.

TURLEY & WRIGHT,
Solicitors for Mrs. Linda Y. Spratley.

Filed Aug. 14th, 1897.

JNO. W. BUFORD, *Clerk,*
By J. E. SPRINGBETT, *D. C.*

86 THE STATE OF TENNESSEE:

I, Jno. W. Buford, clerk of the supreme court of said State for the western division thereof, at Jackson, do hereby certify that the foregoing 86 pages *is* a true, perfect, and complete copy of the record of all the proceedings by said court at its April term, 1897, in the case of Connecticut Mutual Life Ins. Co. against Linda Y. Spratley, as appears of record now on file in my office.

Seal Supreme Court of Tennessee, Western Division, Jackson, Tenn.

In testimony whereof I have hereunto set my hand and affixed the seal of the court, at office, in the city of Jackson, on this the 6 day of Oct., A. D. 1897, and of the Independence of the United States the 121 year.

JNO. W. BUFORD, *Clerk*,
By J. W. BUFORD, JR., *D. C.*

Endorsed on cover: Case No. 16,697. Tennessee supreme court. Term No., 484. The Connecticut Mutual Life Insurance Company, plaintiff in error, *vs.* Linda Y. Spratley. Filed October 18th, 1897.